

# Business Insurance

June 18, 2007

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**SUPERFUND RULING MAY PROMPT MORE VOLUNTARY CLEANUPS AT POLLUTED SITES / PAGE 3**

**OREGON REGULATOR JOEL ARIO HEADS EAST FOR NEXT POST / PAGE 3**

**TEKS TO JOIN OF STATES / PAGE 3**



## In Brief

### High court permits pension termination

An employer can terminate its pension plans even if the union representing the company's employees offers—in lieu of termination—to merge the corporate plans with a multiemployer plan covering union-represented employees, the U.S. Supreme Court ruled last week. Crown Vantage Inc., which filed for bankruptcy in 2000 and then liquidated assets, intended to terminate its pension plans and use a \$5 million surplus to pay creditors. PACE International Union sought a plan merger, but the high court ruled that Crown did not have a fiduciary duty to accept the union's offer.

### Vermont law allows captive securitizations

Vermont Gov. James Douglas has signed legislation allowing

See **IN BRIEF** page 30

## SECTOR BRIEFING

### ENERGY & UTILITIES

Business interruption risks face increased scrutiny; OIL seeks to grow despite fall decline in membership; new risks emerge in energy sector as renewable energy gains ground; some firms go bare on political risks. **PAGE 9**



# Surplus lines deal latest buyout twist

*Move could mark change of focus for private investors*

By **ROBERTO CENICEROS**

**RICHMOND, Va.**—The proposed \$575 million sale of surplus lines insurer James River Group Inc. to an investment firm reflects growing interest from capital markets in U.S. commercial insurance entities beyond brokers and reinsurers, observers say. Though not unprecedented, D.E. Shaw Group's plan to take the insurer private is unusual and may signal more deals in the sector, they say. However, the softening excess and surplus lines market may dampen the enthusiasm of other private equity investors considering the sector, some say.

The \$575 million cash deal announced last week, if completed, would give D.E. Shaw a stake in the E&S market as well as the workers compensation market. New York-based D.E. Shaw is often cited as one of the nation's largest hedge fund managers, but the company says it is more than a hedge fund and calls itself a global investment firm.

James River Group is a holding company founded in 2002 and the parent of James River Insurance Co.,

### JAMES RIVER GROUP INC.

**GROSS WRITTEN PREMIUMS:** \$297.4 million in 2006

**NET EARNED PREMIUMS:** \$217.9 million in 2006

**SUBSIDIARIES:** James River Insurance Co., a Richmond, Va.-based specialty and excess and surplus lines insurer; Stonewood Insurance Co., a Raleigh, N.C.-based workers compensation insurer that focuses on residential construction in North Carolina and Virginia

**HEADQUARTERS:** Chapel Hill, N.C.

a Richmond, Va.-based E&S insurer. The unit accounted for \$249 million of the \$297 million in gross written premiums the holding company reported in 2006. Another unit, Stonewood Insurance Co., accounts for the remainder. Stonewood is a Raleigh, N.C.-based workers comp insurer focusing primarily on North Carolina and Virginia residential construction.

James River companies write in 48 U.S. states for accounts that pro-

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Now Inside

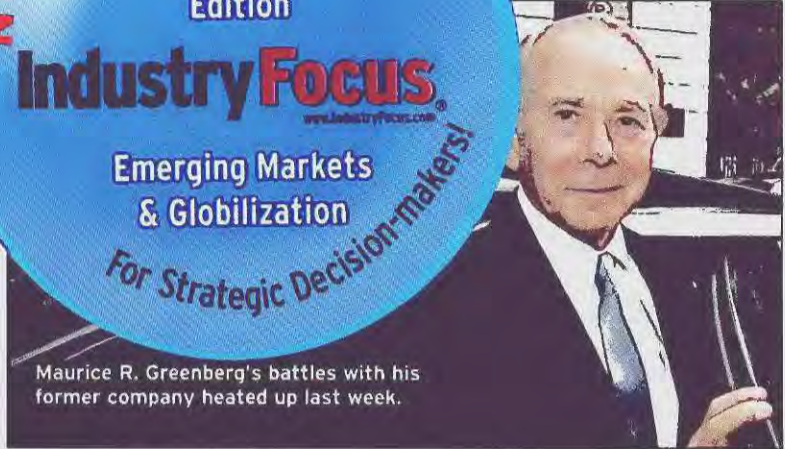
June Edition

## Industry Focus

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Emerging Markets & Globalization

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Maurice R. Greenberg's battles with his former company heated up last week.

LANDOV

# AIG sues former execs to recoup settlements

*Insurer seeks over \$1 billion paid to end probes*

By **RUPAL PAREKH**

**WILMINGTON, Del.**—American International Group Inc. last week sued its former Chairman and Chief Executive Officer Maurice R. Greenberg and former Chief Financial Officer Howard I. Smith for more than \$1 billion for losses to the insurer stemming from their alleged wrongdoing.

The suit, which AIG took over from company shareholders, stems from a series of shareholder derivative actions that began in October 2004, following then-New York Attorney General Eliot Spitzer's bid-rigging lawsuit against Marsh & McLennan Cos. Inc., which cited

AIG and other insurers as participating in the alleged wrongdoing. MMC and AIG have both settled related charges.

The shareholder suit was later amended to include other alleged wrongdoing on the former executives' watch, including flawed accounting practices and problematic finite reinsurance deals.

AIG decided to take over the case following a review by a special litigation committee, which "determined that it would be in the best interests of AIG and its shareholders for AIG to pursue these claims...rather than have them con-

See **AIG** page 30

# Managed care firm ties health account to HMO

*Plan design combines traditional gatekeeper model with upstart cost-cutting strategy*

By **JOANNE WOJCIK**

**WOODLAND HILLS, Calif.**—In an acknowledgement that the consumerism movement could help

reduce health plan costs, a health maintenance organization has created a hybrid product that combines the preventive care focus of a traditional HMO with the financial

incentives and health education tools of a consumer-driven health plan.

Believed to be the first product of its kind, according to health plan experts, Health Net Inc.'s Optimizer HMO, which was introduced to employers with at least 51 employees in the California market earlier this month, is a traditional HMO combined with an employer-funded health reimbursement arrangement that plan members can tap to make copayments and pay any other out-of-pocket costs using a special debit card (see related story).

The hybrid plan requires members to choose a gatekeeper primary

care physician at enrollment as with a traditional HMO. The premiums are about 18% to 20% lower than Health Net's traditional HMO products.

Plan members also are eligible to receive up to \$200 in additional funds in their HRAs—contributed by Health Net, not their employer—if they meet two criteria: Completing a health risk questionnaire nets them \$100, while those who contact "Decision Power," the HMO's health coaching service, within six months of a hospitalization will receive \$100. Plan members also

See **HYBRID** page 29

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*Bryon Ehrhart,  
President and CEO of Aon Re Services*

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## On the Web

### BENEFIT MANAGER OF THE YEAR®

Deadline is June 22 for BI's 2007 BMOY award

The deadline for nominations for the Business Insurance 2007



Benefit Manager of the Year® award has been extended to June 22. The

winner will be profiled in the Sept. 17 issue. Download a nomination form at [www.BusinessInsurance.com/BMOY](http://www.BusinessInsurance.com/BMOY).

### ONLINE EXECUTIVE FORUM™

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Learn how to implement a successful enterprise risk management program by joining John Hampton of St. Peter's College and other panelists at 11 a.m. EDT June 27 as they discuss "ERM in the Real World: A Practical Approach to Solving Enterprisewide Problems" during a BI Online Executive Forum™ webinar. To register, go to [www.BusinessInsurance.com/webinars](http://www.BusinessInsurance.com/webinars).

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## Business Insurance

REPORTING ON CORPORATE RISK AND EMPLOYEE BENEFIT MANAGEMENT NEWS

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# Court clarifies Superfund rules

Companies can seek to recoup costs for voluntary cleanup

By SALLY ROBERTS

**WASHINGTON**—Companies that are potentially liable for the cleanup of a contaminated site and that begin a remediation effort voluntarily can recoup some of the cost from other liable parties, the U.S. Supreme Court ruled last week in a closely watched case.

But while the decision may result in more companies voluntarily

cleaning up a site, it removes a key incentive for potentially responsible parties to settle with the government, environmental attorneys say.

On June 11, the Supreme Court unanimously ruled in *United States vs. Atlantic Research Corp.* that potentially responsible parties that voluntarily clean up a contaminated site can sue other PRPs, including the federal government, to recover costs stemming from the cleanup under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980—the federal law that created Superfund.

The decision resolves uncertainty

that followed the 2004 decision in *Cooper Industries vs. Aviall Services Inc.*, in which the Supreme Court ruled that under Section 113 of CERCLA, a PRP could not seek contributions from other liable parties unless that PRP faced a related lawsuit under CERCLA.

Since then, federal appeals courts have split over whether Section 113 is the exclusive remedy for PRPs seeking to recoup costs for voluntary cleanups. While the 3rd U.S. Circuit Court of Appeals, for example, ruled that a voluntary remediation must be sued before it is allowed

See **CLEANUP** page 28



Atlantic Research Corp. voluntarily cleaned a contaminated site in southwest Arkansas that retrofitted rocket motors for the Defense Department.

## Oregon regulator tapped as Pa. commissioner

Replacement not yet named for longtime state insurance chief

By MEG FLETCHER

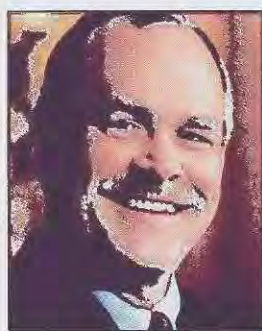
**HARRISBURG, Pa.**—Pennsylvania Gov. Edward G. Rendell last week nominated Joel Ario, the chief insurance regulator for Oregon, to serve as Pennsylvania's insurance commissioner.

Mr. Ario, 53, has been with the Oregon Department of Consumer and Business Services since 1994 and has been administrator of the Insurance Division since 2000. He has served as vp of the National Assn. of Insurance Commissioners and currently chairs its Health Insurance and Managed Care Committee.

If confirmed by the Pennsylvania Senate, Mr. Ario will succeed Randy Rohrbaugh, who was named acting insurance commissioner when Diane Koken resigned in February. "Ms. Koken served three governors and was the

longest-serving insurance commissioner in the state's modern history," according to the governor's statement.

The Oregon department intends to conduct a nationwide search for to replace Mr. Ario, who is expected to leave in late July, a department spokeswoman said. No acting replacement has been named yet, she said.



Joel Ario, who has been with the Oregon Department of Consumer and Business Services since 1994, has been nominated as Pennsylvania's insurance commissioner.

"This is a great opportunity for Joel, but a significant loss for Oregon," Cory Streisinger, director of the Oregon department, said in a statement.

Gov. Rendell's statement praised Mr. Ario as "a highly qualified and seasoned administrator with a strong and proven record of fighting to protect the rights and needs of consumers." Mr. Ario's tenure in Oregon "has been marked by collabora-

tion with companies, agents and consumers to ensure that appropriate consumer safeguards are in place, while also preserving the flexibility insurers need to thrive in the fast-changing insurance marketplace," he said.

### NEW IN THE CAPTIVE RANKS

If Gov. Matt Blunt signs recently passed captive legislation, Missouri will join nine other jurisdictions that since 2000 have enacted measures allowing the formation of captives.

State	Year captive legislation was passed	Number of captives*
Alabama	2006	0
Arizona	2001	74
Arkansas	2001	1
District of Columbia	2001	70
Kentucky	2000	10
Montana	2001	21
Oklahoma	2004	1
South Carolina	2000	146
Utah	2003	30

\*At year-end 2006

## Missouri captive bill awaits governor's OK

Proposed law largely based on Vermont, other domiciles' regs

By JERRY GEISEL

**JEFFERSON CITY, Mo.**—Missouri could be the nation's next captive insurance domicile.

Legislation permitting captive formations was approved by the Missouri General Assembly last month and has been sent to Gov. Matt Blunt for his signature. Gov. Blunt has not yet said whether he

will sign the bill, S.B. 215, though supporters are optimistic he will.

The measure, introduced by Sen. John Loudon, R-Chesterfield, mirrors captive statutes in other states, especially Vermont, the nation's largest captive domicile, with over 560 captives.

For example, the premium tax structure laid out in the legislation is identical to Vermont's. On direct written premiums, the tax would be 0.38% on the first \$20 million in premiums, 0.285% on the next \$20 million, 0.19% on the next \$20 mil-

See **CAPTIVE** page 28



ON OCT. 8, 2007, *Business Insurance* will celebrate its 40th anniversary of publication. Each week until then, *BI* will offer a peek at news we reported during the past four decades.

**JAN. 9, 1978** Property/casualty insurers made nearly \$1 billion in 1977 on underwriting as premium volume totaled \$73.9 billion, the Insurance Information Institute estimates. The underwriting profit follows three years of underwriting losses: \$2.3 billion in 1976, \$4 billion in 1975 and \$2.6 billion in 1974.

**MARCH 6, 1978** American Can Co. is testing a new, flexible benefits program. Core benefits include basic medical, life, vacation and retirement accumulation. Optional extras include dental, vision and long-term disability. The program was designed by Hewitt Associates and underwritten by Metropolitan Life Insurance Co.

# Strong technical skills help reinsurer exec scoop top APIW honor

H. Elizabeth Mitchell lured initially by 'hot' Wall Street activity

By GLORIA GONZALEZ

**NEW YORK**—Making it to the executive suite as a woman in the male-dominated insurance industry is no easy task, but H. Elizabeth Mitchell hopes young women in the industry can benefit from her experience.

Ms. Mitchell, president of Platinum Underwriters Reinsurance Inc., ascended to a top position in the industry by leveraging her skills as an actuary and tackling diverse, complicated projects in various lines of business.

Having a strong technical background, and the educational credentials that go with it, is critical for young women to advance because when they achieve that level of expertise, "your experience speaks more than your gender," Ms. Mitchell said.

Being one of only a few women to attain an executive position at the C-suite level in the insurance industry and her commitment to passing on the benefit of her experiences to other women are key reasons Ms. Mitchell was selected as the Insurance Woman of the Year by the Assn. of Professional Insurance Women.

"She made it to the C-suite, which is very impressive," said Maryanne Sherman, president of the APIW and Sherman Think Tank, a strategic planning and communications firm in Lawrenceville, N.J. "That part is what really makes her special."

Ms. Mitchell is the 31st recipient of the annual award from the APIW, an organization devoted to the advancement of professional insurance women, and was honored at a June 14 reception at the Marriott Marquis in New York.

"I think women who have broken through the glass ceiling and reached the top of the companies deserve to have recognition of that," said Laurie A. Kamaiko, a past president of the APIW, chair of the selection committee and a partner with law firm Edwards & Angell L.L.P. in New York. "Liz shows that nice girls do get the corner office."

As a young woman, Ms. Mitchell did not start college with the intention of entering the insurance industry. In fact, she attended the College of the Holy Cross in Worcester, Mass., on a full scholarship as a classics major, studying

H. ELIZABETH MITCHELL



**JOB:** President of Platinum Underwriters Reinsurance Inc.

**EDUCATION:** College of the Holy Cross, Bachelor of Arts (1985), Fellow of the Casualty Actuarial Society (1990)

**YEAR ENTERED INDUSTRY:** 1985

Greek and Latin. During her college years, though, she also accumulated several mathematics credits. After graduating as the valedictorian of her class, Ms. Mitchell decided she wanted to enter the financial services industry because Wall Street was "hot" at the time, she said. Leveraging her mathematics background, she took a test to get a job with the Insurance Services Office in 1985 and began training as an actuary.

After working for ISO for more than a year, she moved on to Tillinghast/Towers Perrin, where she gained valuable experience seeing the topics she was studying put into practice in her six years with the firm, she said.

She worked as a corporate actuary with English & American Insurance Co. Ltd. before joining St. Paul Reinsurance Inc. in 1993, where she held several senior positions before becoming the executive vp responsible for all North American casualty underwriting.

As part of a massive restructuring of the insurer's organization, the unit was spun off and renamed Platinum in 2002. Ms. Mitchell held the position of chief operating officer and executive vp of Platinum US before being named president in August 2005. The company writes more than \$1 billion of property, casualty and health reinsurance premium.

"She has helped create and develop Platinum Re to the success that it

See MITCHELL page 26

# Optional federal charter supporter slams 'Balkanized' state regulation

House reform bill expected to mimic recent Senate measure

By MARK A. HOFMANN

**WASHINGTON**—A bill that would allow insurers to seek federal rather than state charters will be introduced in the U.S. House this week, the measure's chief sponsor said.

"The insurance markets are Balkanized," said Rep. Edward Royce, R-Calif., during a luncheon address at the Risk & Insurance Management Society Inc.'s RIMS on the Hill legislative meeting last week. "We need a world-class regulator" to oversee insurers that chose to be

chartered federally rather than by the states, as required by current law, he said.

RIMS is among the organizations that support an optional federal charter for insurers.

Rep. Royce, who introduced an optional federal charter bill last fall, said he planned to reintroduce a bill this week.

He declined to name any co-sponsors, but said it would be "very close" to the Senate optional charter bill introduced late last month by Sens. John Sununu, R-N.H., and Tim Johnson, D-S.D. (BI, May 28).

Rep. Royce noted that other



'Would you want the head of the Securities and Exchange Commission to be elected every four years?'

Rep. Edward Royce, R-Calif.

industries have federal regulators who can act as advocates for their concerns. "Look what we've done in other sectors," he said. He noted that banks can choose a national

See CHARTER page 27

# Changing insurers yields surprise

Survey finds middle-market, small companies save more than expected

By DOUGLAS McLEOD

**GREENWICH, Conn.**—Middle-market and small companies that switched insurers over the past two years achieved larger reductions in property/casualty and employee benefits premiums than most of them expected, a survey suggests.

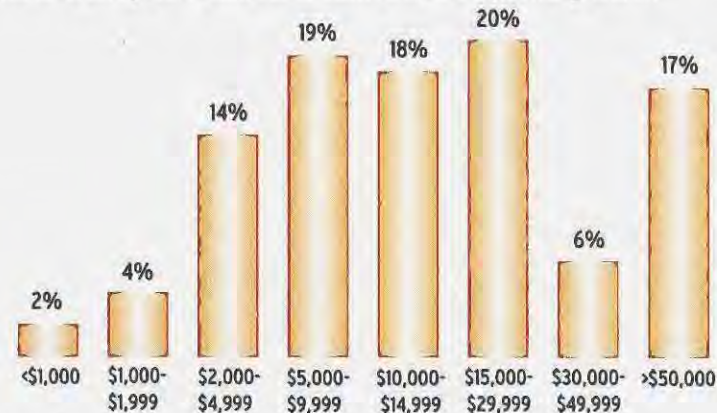
Greenwich Associates, a financial services consulting firm in Greenwich, Conn., surveyed 632 companies—257 middle-market firms with \$10 million to \$500 million in sales and 375 small companies with \$1 million to \$10 million in sales—about their insurance buying decisions.

The companies were asked what

See INSURERS page 27

## SWITCHING TO SAVE

How much savings would make middle-market and small buyers change insurers



Source: Greenwich Custom Research

# Deadline approaching to nominate candidates for top benefit award

Business Insurance has extended the deadline for nominations for the 2007 Benefit Manager of the Year.

The competition seeks to recognize excellence and innovation in benefits management. Any full-time employee of a corporation, nonprofit organization or government entity who oversees or administers benefit functions is eligible.

An independent panel of judges will score nominees on how well he or she:

- Solved one or more major problems for his or her employer.
- Innovatively applies benefit programs to his or her organization's needs.
- Effectively uses benefit programs to help control costs.
- Exhibits leadership in achieving change within his or her organization.
- Established an effective system

2007  
**Benefit  
Manager  
OF THE YEAR.**

for communicating benefit programs to employees.

- Skillfully administers benefit programs through application of technology.

- Develops in his or her career and promotes advancement of the benefits profession.

The value or generosity of specific benefits will not be judged; the award is intended to honor outstanding performance in managing

and administering employee benefit programs overall. The highest-scoring candidate, as determined by the judges, will be named Benefit Manager of the Year and will be profiled in the Sept. 17 issue of BI.

Judges will include representatives of benefit consulting firms, brokerages, health insurers/managed care organizations, benefits industry vendors as well as prior winners of the award.

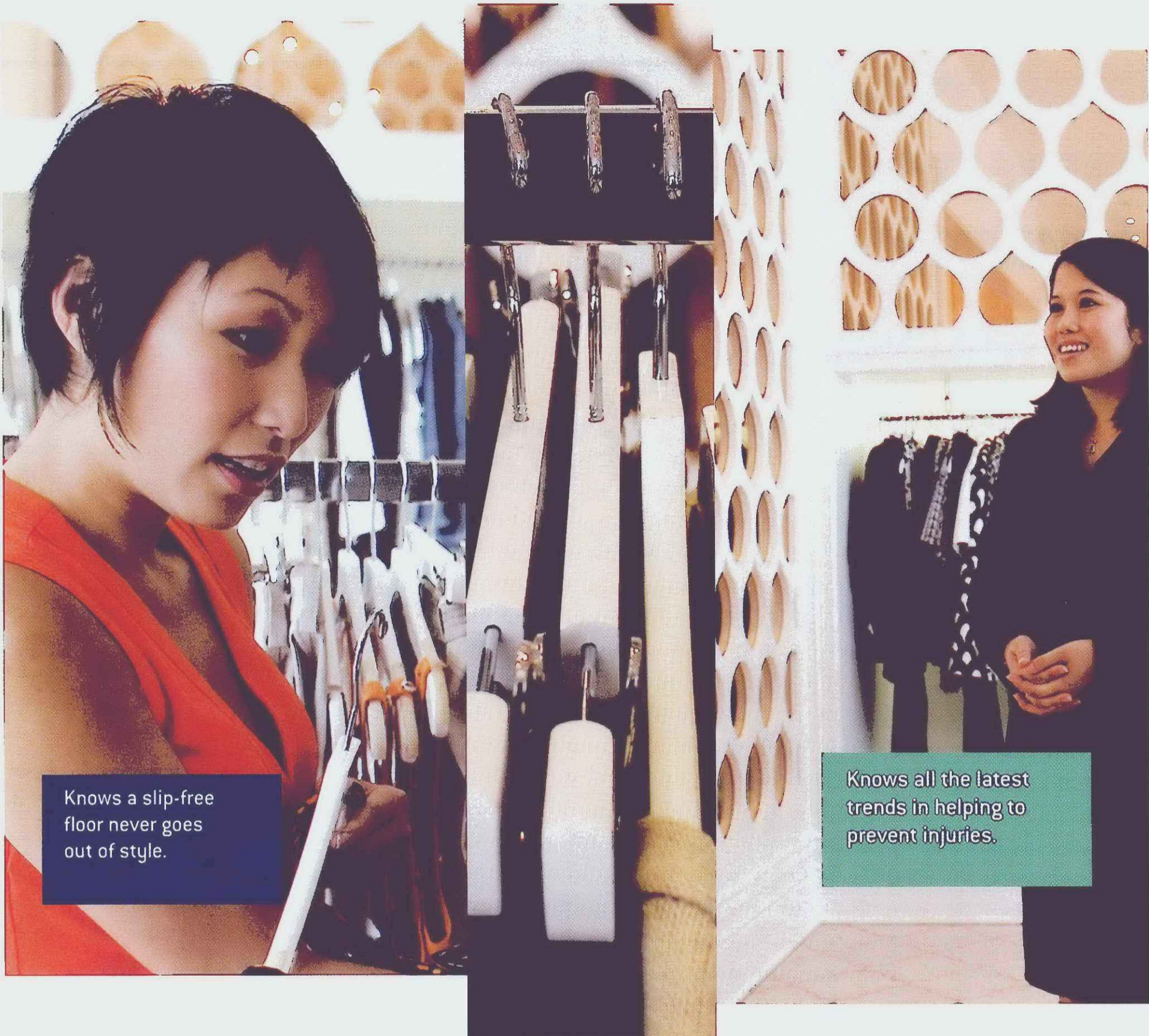
Candidates may nominate themselves or be nominated by a supervisor, colleague, broker, consultant or service provider, but the nomination must be accompanied by a letter from a superior who is familiar with the candidate's work. The extended deadline for nominations is **June 22**.

To nominate a candidate, please download a form at [www.BusinessInsurance.com/BMOY](http://www.BusinessInsurance.com/BMOY).

## Errors & Omissions

A story in the May 28 issue, "Profitable D&O Market Draws New Entrants," included a reference to a W.R. Berkley Corp. unit, Select Specialty Manager L.L.C. The

unit will focus on professional liability and general liability business and does not have plans to enter the directors and officers market.



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Knows all the latest trends in helping to prevent injuries.

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# Largest pension plans improve overall level of funding: Review

By ROB KOZLOWSKI

The top 100 U.S. corporate pension plans in aggregate were fully funded at the end of 2006, a major reversal from past years, *Pensions & Investments'* review of annual reports shows.

In dollar terms, the 100 largest plans showed an aggregate \$37.5 billion surplus, based on projected benefit obligations—the first surplus since *P&I* began tracking annual reports in 2002. In 2005, the 100 largest were underfunded by a total of \$50.6 billion; in 2004, they were down by \$69.5 billion.

Significantly higher investment returns were the largest factor in improved funding. The Russell 3000 index, for example, returned 15.72% last year vs. 6.12% in 2005.

Corporations also took steps to improve their funding to comply with requirements in the Pension Protection Act of 2006, signed into law by President Bush last August.

Of the 100 plans, 45 reported funding surpluses.

The overall best-funded plan for the second consecutive year was FPL Group Inc. of Juno Beach, Fla. In 2006, FPL had a funded ratio of 200.1%, vs. 195.1% a year earlier.

Second for the year was MeadWestvaco Corp. of Glen Allen, Va., with 137.4% in 2006, up from 125.6% in 2005.

The rest of the top five were: Charlotte, N.C.-based Bank of America Corp., at 132.4% in 2006, up from 112% in 2005; Dominion Resources Inc. of Richmond, Va., 130.7% in 2006 vs. 113.7% in 2005; and Prudential Financial Inc. of Newark, N.J., 130.4% in 2006 vs. 122.9% in 2005.

The worst-funded plans on a percentage basis were airlines, although their funding ratios improved.

Atlanta-based Delta Air Lines Inc. was the worst, with a funding ratio of 60.8% in 2006, up from 50.6% in 2005. The improvement was due to termination of the pilots' pension plan last September.

The remaining plan's actual return on plan assets was 14% in 2006, compared with 15.2% in 2005. Delta contributed \$5 million to the plan last year.

Northwest Airlines of Eagan, Minn., was second-worst, with a funding ratio of 67% in 2006, up from 61.2% in 2005. Its actual return on plan assets was 13.9% in 2006, up from 8.8% in 2005. Northwest contributed \$86 million to its plan in 2006.

A key provision in the Pension Protection Act will give the two airlines 17 years to fully fund their plans, as well as allow them to use a discount rate of 8.85% to calculate their underfunding. Delta's

discount rate was 5.88% last year; Northwest's was 6%. The higher discount rates mean the plans will look fully funded sooner. (Recently, President Bush signed a bill allowing American Airlines Inc. of Fort Worth, Texas, and Houston-based Continental Airlines Inc. to use a discount rate of 8.25%.)

Rounding out the list of the five worst-funded plans: Houston-based Conoco-Phillips, with a 2006 funding ratio of 69.6%, up from 59% in 2005; Delphi Corp. of Troy, Mich., at 71.9%, up from 70.6%; and AK Steel of Middletown, Ohio, 73.1%, up from 67.4% in 2005.

## Few worse off

Only four of the 100 largest pension plans saw their funded ratios drop in 2006, compared with 45 in 2005. Duke Energy Corp. of Charlotte, N.C., had the biggest decrease, to 89.7% from 103.3% in 2005. Duke's actual return on plan assets dropped to 7.3% in 2006 from 13% in 2005, and the firm contributed \$124 million to the plan in 2006. Its expected long-term rate of return was 8.5% both years.

The other three firms that saw funded ratio drops were: Wells Fargo & Co. of San Francisco, to 120.4% in 2006 from 122.2% in 2005; Memphis, Tenn.-based FedEx Corp., to 83.4% in 2006 from 84.9% in 2005; and DTE Energy Co. of Detroit, to 86.5% in 2006 from 86.8% in 2005.

Among the 10 largest plans, meanwhile, eight reported funding surpluses.

Detroit-based General Motors Corp., the largest U.S. corporate pension plan, had a funding ratio of 118.7% in 2006, up from 106.9% in 2005. The return on plan assets was 13.2%, up from 11.5% in 2005, according to its annual report. GM contributed approximately \$80 million to the plan in 2006.

Second-place AT&T Inc. of San Antonio recorded an increase in part because this was the first year the company included BellSouth Corp's assets in its totals. AT&T completed its purchase of BellSouth in December.

AT&T reported \$69.2 billion in fair value of plan assets as of Dec. 31, with a projected benefit obligation of \$56 billion, for a funding ratio of 123.8%. In 2005, AT&T reported plan assets of \$48.8 billion with a PBO of \$46.2 billion, and BellSouth reported plan assets of \$16.2 billion with a PBO of \$11.9 billion, for a combined funding ratio of 112%.

Bethesda, Md.-based Lockheed Martin Corp. had the worst funded ratio of the largest 10 plans in 2006: 90.2%, up from 82.4% in 2005. The actual return on plan assets was 11.8% in 2006, up from 6.7% the

## FUNDED STATUS OF THE LARGEST DEFINED BENEFIT PLANS

Ranked by funding shortfall. Data is as of Dec. 31, except where noted. Dollars are in millions.

Company	Funded status	Change from 2005	Company	Funded status	Change from 2005
General Motors	\$15,970	\$9,853	3M	-\$89	\$678
AT&T	\$13,335	\$10,756	ITT Industries	-\$122	\$483
General Electric	\$11,465	\$5,700	Consolidated Edison	-\$176	\$396
Verizon	\$7,350	\$3,663	Reynolds American	-\$183	\$696
IBM	\$6,415	\$4,278	Textron	-\$235	\$138
Alcatel-Lucent <sup>1</sup>	\$5,576	\$2,883	KeySpan	-\$308	\$194
Bank of America	\$4,113	\$2,706	American International Group	-\$319	\$250
Prudential <sup>2</sup>	\$2,427	\$573	Pactiv <sup>4</sup>	-\$326	\$176
JPMorgan Chase	\$1,857	\$294	Public Service Enterprise	-\$333	\$321
United Parcel Service <sup>3</sup>	\$1,816	\$1,172	Sempra Energy	-\$350	\$129
FPL Group <sup>4</sup>	\$1,622	\$101	Hewlett-Packard <sup>9</sup>	-\$363	\$158
Qwest	\$1,486	\$1,095	DTE Energy	-\$427	-\$31
Eastman Kodak	\$1,263	\$874	Honeywell	-\$430	\$1,085
Wachovia <sup>5</sup>	\$1,237	\$602	Duke Energy <sup>6</sup>	-\$499	-\$594
Southern Co. <sup>6</sup>	\$1,202	\$612	Caterpillar <sup>10</sup>	-\$500	\$738
Altria	\$1,183	\$1,311	Walt Disney <sup>3</sup>	-\$524	\$1,017
DaimlerChrysler	\$1,182	\$4,253	Bristol-Myers Squibb	-\$528	\$373
Dominion Resources	\$1,127	\$601	Abbott Laboratories	-\$528	\$164
J.C. Penney	\$935	\$417	Anheuser-Busch <sup>11</sup>	-\$545	\$335
MeadWestvaco	\$920	\$284	Ford Motor	-\$560	\$1,181
Wells Fargo	\$908	\$9	PepsiCo <sup>3</sup>	-\$569	\$116
Weyerhaeuser <sup>7</sup>	\$843	\$647	Whirlpool	-\$631	-\$886
Citigroup	\$823	\$826	Allstate	-\$657	\$43
General Mills <sup>8</sup>	\$706	\$551	Exelon	-\$751	\$436
Boeing <sup>3</sup>	\$621	\$2,320	Wyeth	-\$785	\$146
Xcel Energy	\$517	\$220	CIGNA	-\$843	\$223
Energy East	\$513	\$296	Chevron	-\$851	\$280
Bancorp <sup>3</sup>	\$451	\$179	International Paper	-\$871	\$1,463
MetLife	\$346	\$594	Dow Chemical	-\$892	\$1,401
Emerson Electric	\$321	\$502	DuPont	-\$940	\$2,203
American Electric	\$238	\$442	AK Steel	-\$1,006	\$213
Aetna <sup>6</sup>	\$215	\$438	Sears Holdings	-\$1,073	\$772
United States Steel	\$210	\$816	CBS	-\$1,074	\$355
Deere <sup>9</sup>	\$176	\$374	Kimberly-Clark	-\$1,083	\$300
Owens-Illinois	\$164	\$357	Motorola	-\$1,196	\$243
Southern California Edison	\$164	\$283	Xerox	-\$1,250	\$608
Unisys	\$160	\$439	ConocoPhillips	-\$1,250	\$270
Merck	\$130	\$583	United Technologies <sup>12</sup>	-\$1,355	\$1,451
Marsh & McLennan	\$118	\$197	Goodyear Tire & Rubber	-\$1,367	\$636
Kellogg	\$116	\$339	Electronic Data Systems	-\$1,450	\$456
NCR	\$95	\$369	Alcoa	-\$1,517	\$492
Time Warner	\$58	\$281	Exxon Mobil	-\$1,553	\$2,378
Hartford Financial	\$51	\$538	FedEx <sup>13</sup>	-\$2,023	-\$448
Eli Lilly	\$39	\$185	Johnson & Johnson	-\$2,122	-\$59
Pfizer	\$24	\$957	American Airlines	-\$2,483	\$742
Embarq	-\$26	\$524	Lockheed Martin	-\$2,790	\$2,199
PG&E	-\$36	\$1,164	Raytheon <sup>14</sup>	-\$2,795	\$850
General Dynamics	-\$41	\$607	Delta Air Lines <sup>3</sup>	-\$2,965	\$3,407
FirstEnergy	-\$43	\$183	Northwest Airlines	-\$3,095	\$583
Northrop Grumman	-\$77	\$1,748	Delphi	-\$4,188	-\$136
<b>TOTALS</b>				<b>\$37,496</b>	<b>\$97,616</b>

1 All data as of Nov. 30. 2 Pension cost, corporate data as of Dec. 31; other pension data as of Sept. 30. 3 All data as of Sept. 30. 4 Pension cost, actuarial assumptions, corporate data as of Dec. 31; other pension data as of Sept. 30. 5 Pension cost, corporate data as of Dec. 31; other pension data as of Sept. 30. 6 Pension data as of Sept. 30; corporate data as of Dec. 31. 7 All data as of Dec. 25. 8 All data as of May 28, 2006. 9 All data as of Oct. 31. 10 pension data as of Nov. 30, 2005; corporate data as of Dec. 31, 2005. 11 All data as of Oct. 1. 12 Pension data as of Nov. 30; corporate data as of Dec. 31. 13 All data as of May 31, 2006. 14 Pension data as of Oct. 31; corporate data as of Dec. 31.

Source: *Pensions & Investments*

year before. The company contributed \$693 million to the plan in 2006.

## Continued contributions

Corporations continued to make significant contributions to their plans, although they were lower than when the pension funding crisis was at its peak. Overall, employer contributions to the top 100

plans dipped to \$26.1 billion in 2006, down 26.7% from 2005.

Irving, Texas-based Exxon Mobil Corp. made the largest contribution—\$2.383 billion—last year, and had the greatest increase in funding ratios among the top 100 plans, to 86.3% in 2006 from 64.8% in 2005. Exxon Mobil had one of the five worst funding ratios in 2005.

Bank of America contributed \$2.2

billion in 2006, and increased its funding ratio by 20.4%, the second-largest increase among the 100 plans.

Three other firms contributed more than \$1 billion in 2006: United Parcel Service Inc. of Atlanta, \$1.425 billion; Los Angeles-based Northrop Grumman Corp., \$1.157



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# Business Insurance OPINIONS

## Insurance regulation is broken, needs fixing

BRINGING INSURANCE REGULATION into the 21st century is the goal of Rep. Ed Royce, R-Calif., who wants to allow insurers and producers to choose new optional federal charters in place of the current mandatory state charters.

By announcing his intention to introduce OFC legislation in the House at the annual Risk & Insurance Management Society Inc.'s RIMS on the Hill legislative meeting last week, Rep. Royce was in some ways preaching to the choir. RIMS has long supported the OFC, and understandably so. Allowing insurers and brokers to choose one regulator rather than dozens cannot help but encourage competition, innovation and efficiency, both domestically and internationally.

In fact, backers of an OFC bill that's already been introduced in the Senate have made just those points.

Rep. Royce made a telling comment in noting that the current "Balkanized" insurance marketplace somewhat resembles that created by the Articles of Confederation, which allowed the states to govern all economic transactions. States interfered with each other's commerce, something the Founding Fathers found so intolerable that they made sure the new Constitution contained the Commerce Clause specifically forbidding such meddling.

That was an 18th century solution to an 18th century problem. Unfortunately, vestiges of that pre-Commerce Clause thinking are alive and well in insurance regulation. It's well past time to bring insurance regulation into the 21st century by approving OFC legislation, with all due haste.

*It's time to bring insurance regulation into the 21st century.*

## Benefits reform plan a good place to start

THE WORD WE USE to describe last week's proposal by the ERISA Industry Committee to revamp the current employer-based system of providing and administering pension and health care plans is "intriguing."

While ERIC's proposal has many elements, at its heart is the idea that employers would have an alternative to directly providing health care and pension plans to their employees.

Under the ERIC proposal, benefit plans would be offered by competing administrators, with the federal government setting standards for the administrators and with employers and employees still funding the costs.

In a nutshell, such a system would be a middle ground between a single-payer system and the current one in which employers provide benefit plans to their employees.

We see some obvious advantages in the system ERIC is proposing. If plans were offered by a relatively small number of administrators rather than tens of thousands of employers, the administrative cost savings should be considerable.

Just as important as its recommendations is the approach ERIC took to present its plan, calling it a starting point for discussion, not a take-it-or-leave-it proposition. ERIC represents the nation's biggest employers on benefit issues.

Changes of this magnitude can be accomplished only through consensus, ERIC President Mark Ugoretz said. We couldn't agree more. With both employment-based health care coverage and traditional pension plans on the decline, it is not too early to start discussions on alternatives to the current benefits delivery system.



### BI beats list

In an effort to ensure continuing timely coverage of risk management, insurance and benefit-related news, Business Insurance has formalized a list of its reporters' assigned beats. This list is not intended to be exclusive but rather to represent core subject areas of importance to BI readers. BI welcomes ideas and tips from readers on these and other areas. Following is a list of the beats and the principal reporters for each:

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- Bermuda market:** Rupal Parekh.
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- Claims management:** Rupal Parekh.
- Employment practices:** Judy Greenwald.
- Environmental risk management:** Sally Roberts.
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- Reinsurance:** Judy Greenwald.
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- Surplus lines/wholesalers:** Roberto Cenicerros.
- Tort reform:** Mark A. Hofmann.
- Work/life benefits and EAPs:** Sally Roberts.
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Does private equity ownership help insurance industry companies serve customers more effectively?



**NEXT WEEK'S POLL:** How likely is it that federal regulation of insurers would lead to lower costs for commercial policyholders?

BI Online Poll tool sponsored by Wausau Insurance Cos.

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# SECTOR BRIEFING

## ENERGY & UTILITIES

# ENERGY FIRMS DEBATE: TAKE CAUTION OR TAKE THE RISK

REUTERS

## Business interruption risks under scrutiny

*For largest energy companies, higher repair and premium costs prompt many to go without*

By ROSEANNE WHITE GEISEL

Energy insurance market underwriters are putting business interruption exposures under a microscope.

Jumps in crude oil prices and skyrocketing repair costs for offshore equipment and onshore facilities present major challenges to analyzing business interruption risks.

"Business interruption is extremely difficult to underwrite," said Anthony Carroll, chief underwriting officer, energy, for Liberty International Underwriters in Boston. "We've upgraded our risk management to include more focus on potential exposures to shut-down and really understanding refinery economics and offshore production economics so we can better assess exposures."

Two key components in assessing exposures are repair costs and the policyholder's contingency planning in the event of a shut-

down at one of its facilities.

"Business interruption values have increased significantly because of the cost of steel and the lack of quality contractors," said David S. Hawksby, New York-based president of American International Underwriters' energy division.

But with crude oil prices leveling off, refining margins have stabilized. "Business interruption values have peaked," said Kudret Oztap, vp of AIU Energy in New York.

AIU has not made any changes in rates and terms over the past year. "Accounts were re-evaluated in '06, and all terms and conditions will remain stable," Mr. Hawksby said.

Steve Moore, managing director, Marsh Marine & Energy property practice in Houston, said, "Underwriters are looking in great detail at companies' margins," daily, weekly and monthly. Margins are the amount of revenue that refiners and other companies that

use crude oil in production processes can generate from one barrel of crude oil. "Many underwriters are applying margin or adjustment clauses that require the insured to declare an amount, and at the end (of the coverage period) calculate gross earnings and either receive a return premium or pay an additional premium," Mr. Moore said.

Certain offshore installations also are being pushed to meet new safety specifications, said Jim Coco, senior consultant, Marsh Risk Consulting, Houston.

Underwriters also are factoring in platform age and design, Mr. Moore said.

Additionally, some insurers are bumping up waiting periods to a range of 45-60 days and establishing deductibles from \$25 million to \$75 million, Mr. Moore said.

The cost of coverage has caused some com-

See **ENERGY** next page

**DESPITE MEMBERSHIP DECLINE, OIL MUTUAL PERSEVERES, WITH ITS EYES ON GROWTH**

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**SELF-SUFFICIENCY DESIRE, LEGISLATION AID ADOPTION OF RENEWABLE ENERGY**

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**SOME OIL AND GAS COMPANIES GAMBLE AND SKIP COVERAGE FOR POLITICAL RISKS**

**PAGE 18**

One of the many Gulf of Mexico oil rigs off the coast of Louisiana that were evacuated in 2005 when Hurricane Katrina inflicted record insured losses on the region.



REUTERS

## Energy: Oil, steel and labor hamper premium declines

CONTINUED FROM PREVIOUS PAGE

panies to go without the insurance.

Most large offshore companies have stopped purchasing business interruption coverage, said John Rathmell Jr., president of Lockton Marine & Energy in Houston. But offshore companies with annual revenues of \$100 million or less continue to find it necessary to insure against potentially large losses, he said.

For offshore risks in the Gulf of Mexico, the maximum capacity available in the commercial market ranges from \$200 million to \$250

**'There's been a slight adjustment in pricing (for combined property and business interruption coverage). It's still extremely expensive.'**

John Rathmell Jr.,  
Lockton Marine & Energy

million, said Mr. Moore.

While the 2006 hurricane season spared policyholders and insurers alike from the devastation inflicted by the 2005 storms, rate decreases have been small.

"I think there are subtleties" in the market, said Lockton's Mr. Rathmell. "There's been a slight adjustment in pricing (for combined property and business interruption coverage). It's still extremely expensive."

It is easier to get higher limits and more favorable terms this year, he said. "Underwriters are giving a little more windstorm coverage," he said.

For onshore risks, brokers and underwriters say the market is softening, yielding rate reductions ranging from 5% to 10%.

One factor turning the market is about \$100 million in new capacity, said Marsh's Mr. Moore. He estimates the Gulf of Mexico market's total capacity is between \$400 million and \$500 million.

Clients still are being asked to accept substantial retentions, however.

Energy companies with onshore

facilities closest to the shoreline of the Gulf Coast still believe business interruption is worth buying, Mr. Rathmell said. He said he also is seeing slightly lower rates for third-party business interruption in Gulf Coast hurricane-prone areas.

Even among onshore facilities, different segments of the energy industry have different experiences. Rob Bothwell, Boston-based executive managing director with Beecher Carlson Holdings Inc.'s energy practice, said he has seen rate reductions ranging from 10% to 15% for power generators.

In fact, Mr. Bothwell said, "the only negative in the marketplace" involves one specific turbine model with a high failure rate. He described the market's response to that turbine as erratic, with some underwriters taking a hard stance in terms of rates and deductibles.

On the other hand, Mr. Bothwell said, "We've been able to do some really good programs for wind turbines," with deductibles or waiting periods as low as 15 to 20 days and rate reductions as high as 30%.

Rate reductions don't mean that buyers are saving premium dollars, because business interruption values have risen with the prices of oil, steel and qualified labor to return facilities to operating condition, said LIU's Mr. Carroll.

Considering the numerous factors that affect business interruption, buyers must be very clear about what their programs include, brokers and underwriters say.

Discuss issues with your insurer before claims arise, Mr. Carroll said. The gray areas are especially important to hash out. For example, he said, know what happens when a plant shuts down because of warnings of an imminent hurricane, but no physical damage occurs.

"There is ever more emphasis on the quality of information provided to insurers on the derivation of business interruption amounts and, in particular, the contingent and interdependent exposures in the event of a loss," said Neil Smith, executive director of Willis Energy in London.

The challenges in assessing business interruption risks are shifting the renewal period to November through January rather than June, said Marsh's Mr. Moore. "The market then has a better feel for what costs are," he said.

## 'Pricing anomaly' now repaired, OIL looks eastward in search of additional members

By ROSEANNE WHITE GEISEL

Oil Insurance Ltd., after considerable losses from the 2005 hurricane season and this year's decrease in membership, is forging ahead with strategic changes and growth plans based on the mutual's view that it is a necessary alternative to the commercial market.

George Hutchings, OIL's chief operating officer, said one of the most significant changes is fixing a "pricing anomaly" for potential high-frequency and high-severity windstorm risks.

"We are making sure that we fairly and equitably are sharing the cost of risk in our membership. That makes us more attractive to members," Mr. Hutchings said.

Shareholders at the Hamilton, Bermuda-based mutual's annual meeting in March approved rating plan amendments that, for the first time, put Atlantic Named Windstorm risks in separate pricing categories from those without ANWS exposures.

The mutual also covers non-ANWS onshore and offshore exposures that include refining, exploration and production as well as chemical, mining, utility and other energy-related risks.

The board of directors also increased the mutual's aggregation limit for all risks to \$750 million from \$500 million last year. That higher limit effective June 1 will allow OIL "to maintain a solid capital base even if 2005 were to repeat itself," without the need for premium "calls," Mr. Hutchings said.

"OIL is very optimistic that the changes that we made or that we are going to make will be positive for the majority of members," he said.

Despite the changes, 12 shareholders, nine of which were utilities, announced they would not renew their OIL membership.

"The changes were not consistent with (utility companies') overall business objectives," Mr.

Hutchings said. "We would have been more concerned if the members that left represented a cross-section of the membership."

Nine other shareholders did not renew their coverage last year. One other company became ineligible for membership this year after a merger.

To increase its 60-plus member companies, OIL "is looking to maintain and attract highly diversified energy operations all around the world," Mr. Hutchings said. The Far East and the Middle East are two potential

**'We are making sure that we fairly and equitably are sharing the cost of risk in our membership. That makes us more attractive to members.'**

George Hutchings,  
Oil Insurance Ltd.

growth areas, he said, "but it will be company-specific rather than region-specific."

OIL plays a valuable role in the insurance market for energy companies, Mr. Hutchings said. The mutual provides limits that would be impossible to obtain from a single commercial market provider. Windstorm-exposed policyholders can't find sufficient coverage even with OIL's capacity, he said.

Considering insurance industry cycles, "I do think there's a need for OIL," said John L. Ward, chief executive officer of Cincinnati Partners L.L.P., an insurance advisory firm in Cincinnati. The mutual has served high-profile shareholder members "and has a strong brand name," and should ask for

members "loyalty and commitment" as it builds financial strength after 2005's losses, he said.

Meanwhile, sister mutual Oil Casualty Insurance Ltd. soon will roll out its first formal marketing plan.

"Over the next 12 to 18 months, we want to make ourselves more known in the broker community," said Jerry Rivers, COO of OCIL, the excess liability arm of the Oil Group of Cos.

More than 50% of OIL's members also belong to OCIL, Mr. Rivers said. However, Mr. Hutchings noted, many companies that left OIL remain members of OCIL. Utilities heavily represented in the OIL departures remain one of OCIL's strengths.

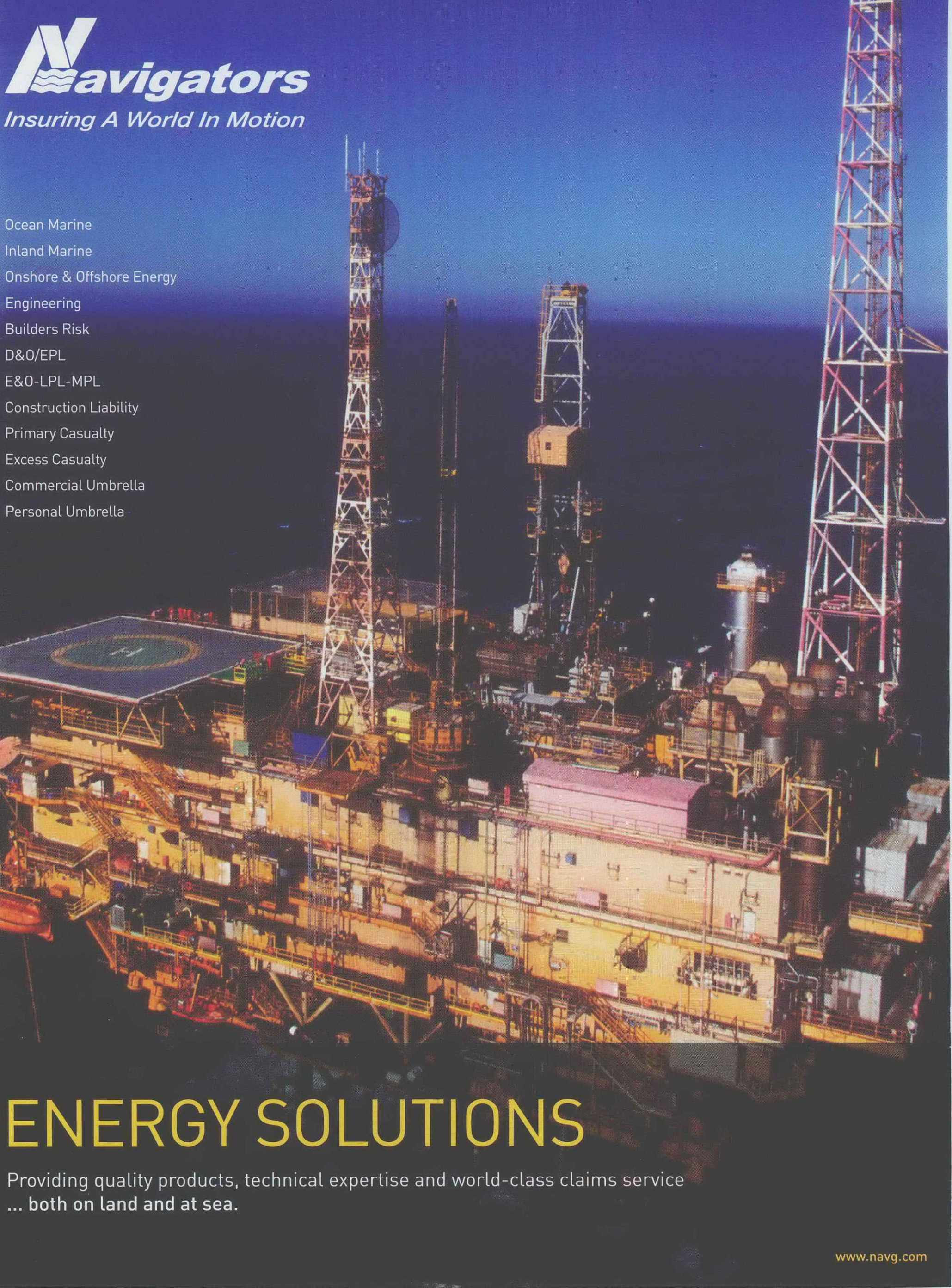
OCIL's BBB+ rating from Standard & Poor's Corp. is a hindrance, Mr. Rivers said, "but from the standpoint of the marketing campaign, that will not slow us down."

OCIL is analyzing its book of business to guide its marketing efforts. "We want to be account-specific and have a conversation with potential clients," Mr. Rivers said. Additionally, the casualty arm of the Oil Group of Cos. has brought down its minimum limit for membership to \$25 million to make it easier for potential members to include OCIL in their programs.

OCIL also will consider four or five new lines of business, Mr. Rivers said.

"At the end of the day, what has made these companies so successful is that we are a very efficient provider of sufficient capacity," Mr. Rivers said. "We have a low operating expense ratio" and shareholders receive earnings per share, he said.

"While we're independent from a financial point of view, members appreciate being part of both organizations," Mr. Hutchings said, with participants able to benefit from the members' collective risk management strength.



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# ENERGY SOLUTIONS

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Investment in renewable forms of energy has been encouraged by state and national incentives in the United States. The Altamont Pass wind farm in Livermore, Calif., includes 5,400 turbines and covers 78 square miles. It is capable of powering up to 180,000 homes.



GETTY

## Risk managers grapple with renewable energy

*The best programs make big difference in price of coverage*

By **STUART COLLINS**

The alternative, or renewable, energy sector is expected to continue its rapid growth rate in coming years. While this industry sector poses its own technical and business interruption challenges, good risk management can make a big difference to the cost and extent of insurance cover that is available, insurers and brokers say.

Renewable energy projects are not new, but the recent and predicted growth in this sector have led at least two insurers and one broker to launch alternative energy practices in recent months.

Wind power generation is by far the most used of the renewable technologies, although other alternatives are becoming mainstream, experts say.

"Financial investments have so far been mainly in wind, but we are starting to see more solar," said David Jones, London-based chief executive officer of Allianz Specialized Investments, a unit of Munich, Germany-based Allianz S.E.

Mr. Jones, whose unit owns and operates three wind farms in Germany and is developing another in Italy, expects that as the renewable market grows, it will adopt more technologies and expand into new geographical regions. While wind power is well-established, alterna-

tive energies are spreading quickly into other technologies—in the near term, solar and hydro, and in time, biofuel—will become more mainstream, he said. Long-term marine technologies such as wave technology also will gain ground, he added.

Europe has embraced renewable energy, with Germany, Spain and Denmark proving to be the most advanced adopters of renewable technologies—mainly wind generation—in Europe. A limited number of solar power generation plants have been developed in Spain and Portugal.

Also, the United States—where investment has been encouraged by

**'Exposure comes down to how good your maintenance is and this directly correlates to the terms and conditions you will get from the marketplace.'**

Michael Buckle, Willis Group Holdings Ltd.

state and federal incentives—has become the largest market for wind power generation, experts said. According to Rick Gibbons, executive vp of AIG Global Marine & Energy in New York, part of American International Group Inc., there are two factors that drive growth of renewable energy in the United

States. These are the desire to become energy self-sufficient and legislation, both state and federal, that could cap emissions of greenhouse gases and further encourage the adoption of alternative energy technologies.

"The market has grown globally—wind power has grown 20%

year on year for a long time—as technology has improved and the cost of producing electricity (from wind generation) has reduced. It is becoming increasingly attractive to utilities," Mr. Jones said. He added that he expects growth to continue along similar lines, although growth in more mature markets such as Germany will slow, he predicted.

Ken Norgrove, London-based chief executive of Royal & Sun Alliance Insurance Group P.L.C.'s recently launched global renewable energy division, said the sector is set for massive growth. The European Union has a target of 20% of energy from alternative supplies by 2020, up from 6% recorded in 2003, he noted.

There are risks for operators associated with the industry's rapid growth and adoption of new technologies, most experts agreed. As renewable technologies develop, venture capital backs prototypes that in time are taken up by utility companies, said Mr. Jones. "Clearly there is a lot of technical risk in wave power at the moment, as it is relatively underdeveloped. But for wind, the challenge has been as the scale has increased. Scaling up has its problems and is an ongoing challenge."

"In the race for scale, the industry needs to be careful not to lose reliability," Mr. Jones said.

But most experts agreed that established renewable technologies like wind and biofuels are well-established and do not pose a particular technical challenge. "There are always the normal risks of operating industrial equipment—but (for renewable energy) these are probably lower than conventional power plants," Mr. Jones said.

"There are always new technology issues, but (wind turbine) manufacturers are getting better—they are bigger companies with a lot of experience under their belts," AIG's Mr. Gibbons said.

But underwriters do look at whether a renewable technology—such as a type of wind turbine—is "proven, unproven or prototype," according to Michael Buckle, executive director of international global markets and part of the utility industry practice group at London-based brokerage Willis Group Holdings Ltd. Rates, deductibles and coverage will differ depending on the technology—from not getting cover at all to having different underwriters offering coverage, he said.

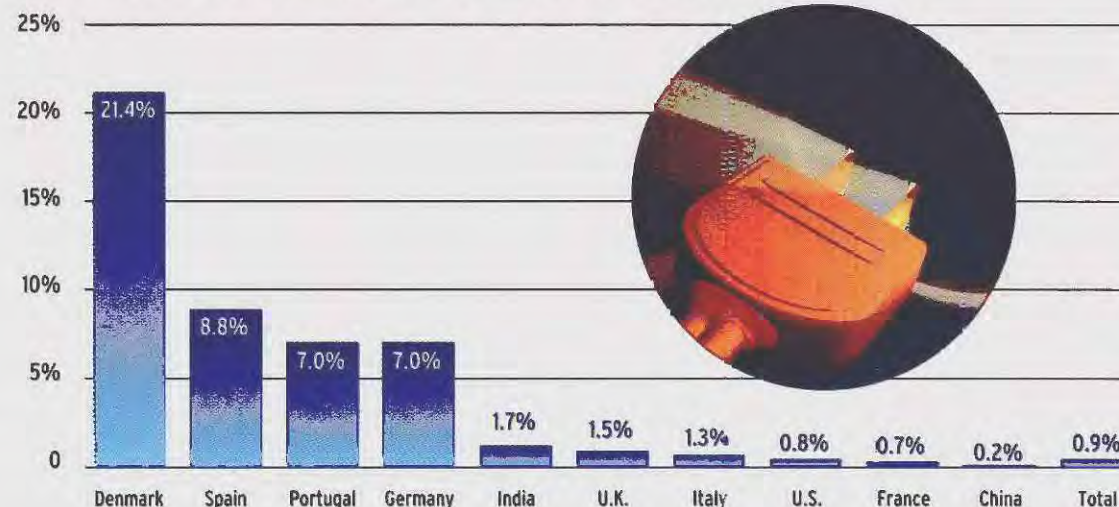
The most prevalent risk, cited by experts, was the capacity of wind turbine manufacturers to supply the products. "Turbines are getting larger and the manufacturers are making more—there is a risk in that," Allianz's Mr. Jones said.

Mr. Gibbons does not believe the sector's rapid growth will pose a problem. But he acknowledged that there are some risks. "The risk is more on the availability of parts and repairs—there is a longer than usual downtime," he said. "And for older models, spare parts are not readily available," he added.

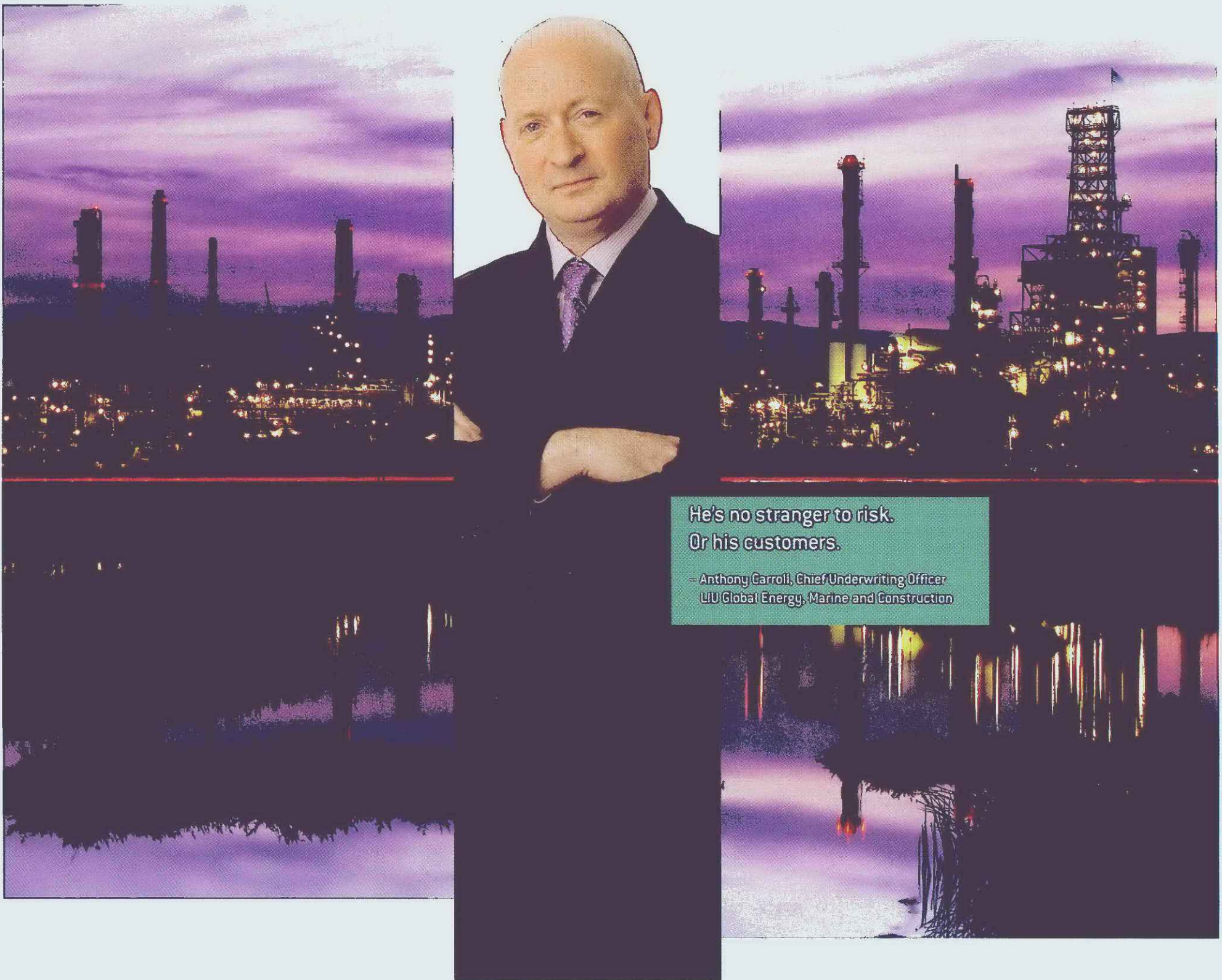
Availability of parts has important implications for business interruption, which is an important risk

### WIND POWER'S SHARE OF THE ELECTRICITY MARKET

Projected wind production as a percentage of electricity consumption (approximate, end of 2006)



Source: Berkeley Lab, U.S. Department of Energy.



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# Limited coverage available for when the wind doesn't blow

A critical risk wind power generating companies face is a lack of wind, a risk where hedging products have been developed by capital markets, but have not been widely bought by companies, according to experts.

"The principal risks of owning a wind farm are whether the wind blows or not," said David Jones, London-based chief executive officer of Allianz Specialized Investments, a unit of Munich, Germany-based Allianz S.E. "Make sure that you assess the wind on a particular site accurately," he advised. "There is a lot of long-term wind data available, but you must have an accurate

**'One of the areas I do not think that insurers are well-g geared up for at the moment is lack-of-wind cover.'**

Tom Sexton, Marsh Inc.

view of a site's potential," he said.

"One of the areas I do not think that insurers are well-g geared up for at the moment is lack-of-wind cover and lack of wave or tide power," said Tom Sexton, London-based co-head of Marsh Ltd.'s renewable energy team for Europe, Middle East, Asia and Africa, a unit of New York-based

brokerage Marsh Inc.

There are some weather-hedging products available, said Mr. Sexton. "There is a weather derivative market to cater for that (lack of wind or tide power) and there have been hybrid deals to combine lack-of-wind cover with derivative support," he said. "But I think that this is an

area where the insurance market does not provide a suitable solution to—they could, but I am not convinced that they would," he added.

London-based Willis Group Holdings Ltd., offers such a product, said Jatin Sharma, global sales coordinator for renewable energy at Willis.

Power generation output from wind farms can be affected by too much or too little wind, he said. Willis offers a weather derivative product that can hedge against this loss of revenue because of inconsistencies in wind, he said. The product is based on an index and payments depend on how much the

wind blows. "If you have a large wind park and need to hedge the returns, you can use this product to make up any shortfall," Mr. Sharma said. "If you have big lender requirements, it is worth looking at."

A lot of conceptual discussions have taken place, but the number of actual deals done is far less, said Mr. Sharma. "Similar products have been bought and have been done for loss of river flow for hydro projects, and heating and cooling degree days," he added.

But buyers question the value of such products when there are other ways to hedge against the weather.

"Currently, they are quite expensive and we are not looking to buy those," said Mr. Jones, whose company owns and operates three wind farms in Germany and is developing another site in Italy.

He added that by building a diversified portfolio, investors and operators can negate the need to buy hedging products. "Diversifying into other technologies and geographical markets creates greater diversity and a reduction in volatility," he said.

—By Stuart Collins

## Renewable: Good risk management

CONTINUED FROM PAGE 12

consideration for many owners and operators, especially for those with commitments to investors, experts said. "Private equity funds are becoming a much bigger player in the renewable sector," said Tom Sexton, London-based co-head of the recently formed dedicated renewable energy team at New York-based brokerage Marsh Inc.

"Smaller wind farms are more risk-averse and tend to buy more cover and equity funds look to buy as much cover as possible," he said. "Finance houses look more carefully at risk and insurance implications," he added.

And according to Marsh's Mr. Sexton, clients now take on more of the warranty risk as manufacturers of wind turbines have leveraged the supply and demand situation. Through hard negotiation, warranty periods have been pushed from five to 10 years down to an average of two years. "This is an opportunity for insurers to fill that gap and we are pushing insurers hard. There are insurers out there with the technical ability to offer and some recognize that," he said.

Spare parts are also an important consideration for underwriters, said Mr. Buckle. "Clients with spare critical parts and maintenance agreements get treated better by underwriters," he said.

He added that machinery breakdown is the single biggest risk faced



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While wind power is still the predominant form of renewable energy, solar power generation plants, like this one in Seville, Spain, are gaining ground.

# Renewable: Good risk management

CONTINUED FROM PAGE 14

by companies in the wind power generation sector.

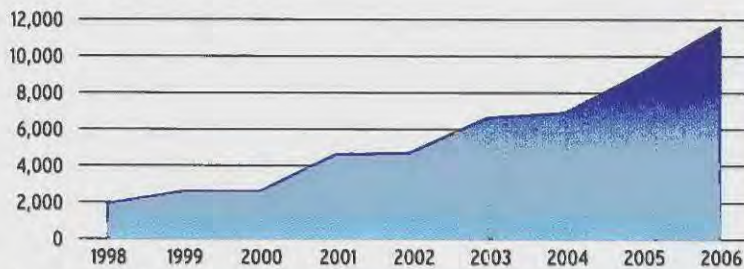
Good risk management in the renewable energy sector can really pay off when it comes to buying insurance, brokers and insurers said.

"Exposure comes down to how good your maintenance is and this directly correlates to the terms and conditions you will get from the marketplace," Mr. Buckle said.

Most underwriters are from an engineering background or sit with an expert who has worked in the renewable energy field and has a good understanding of the role

## U.S. WIND POWER CAPACITY GROWS

Cumulative capacity in megawatts



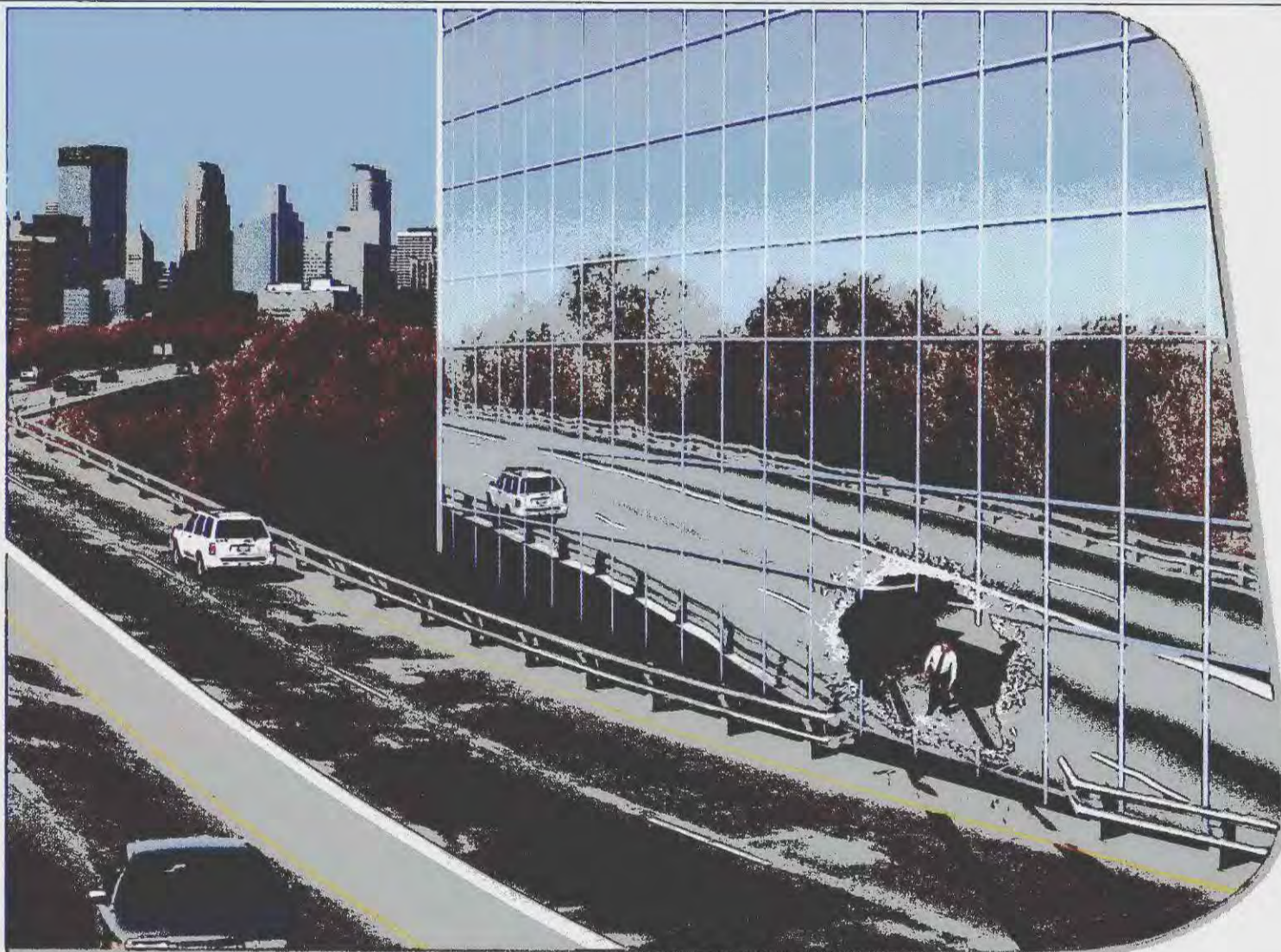
Source: AWEA/GEC database

maintenance plays in wind power generation, he explained. "Under-

writers are looking to see if units are maintained on a regular basis and in line with manufacturers' guidelines. As long as you follow manufacturers' guidelines, you will be fine, but if you deviate, you will find (insurance) much more expensive or carry a bigger deductible," Mr. Buckle said.

He added that risk inspections are very much welcomed by underwriters. "You will get a lower price if you present yourself as a better risk," he added.

AIG looks at the type of equipment, management of facilities, loss history, maintenance records and where the risk is located, Mr. Gibbons said. "There are owners and operators that have evolved into good risks and there are those that have not," he said. "As a class in general, the (risk management) bar has been raised," he added.



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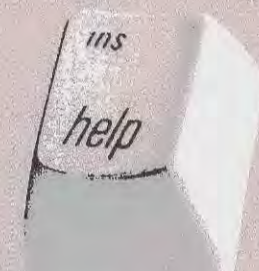
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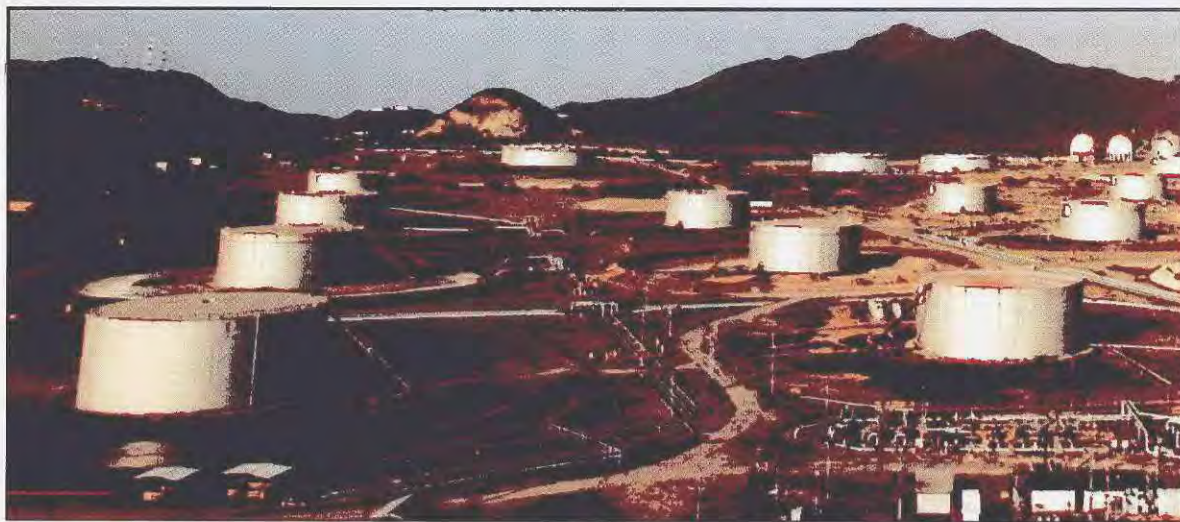
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For oil companies interested in buying political risk coverage, experts say it's available in most countries, except Venezuela, due to the nationalization efforts in which the Venezuelan government took control of Orinoco Belt crude projects.

## Political risk insurance a high-stakes gamble for oil, gas companies

*Preventing losses easier for some than insuring them*

By MICHAEL BRADFORD

Oil and gas companies, despite being potential targets of political actions or violence that could lead

to large losses, are often confident enough in their risk management to operate without insurance coverage that could respond to such losses.

For some energy companies, the cost of political risk insurance from the commercial market or the expense related to self-insurance is not worth the threat of the infrequent yet often severe losses, experts say.

Ironically, the larger the potential target, the more likely it is uninsured.

"Some of the big companies have very large balance sheets and can take on the risk themselves," said Andrew Underwood, London-based head of political risk at Hamilton, Bermuda-based Hiscox Ltd. They may see the cost of insuring political risks as significant, while the possibility of facing claims might not be so large, he said.

It can be a risky strategy, said Mr. Underwood and others in the political risk marketplace. Oil and gas companies sometimes operate in places where governments can have

**'Some of the big companies have very large balance sheets and can take on the risks themselves.'**

Andrew Underwood, Hiscox Ltd.

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shorter lives than the energy companies' contracts, he emphasized.

But some risk managers, confident in their loss control strategies, are taking the gamble. One claims it is easier to prevent politically related losses than cover them.

"We did a survey to see what was possible in the traditional market," said Petter Kapstad, chief risk officer of Statoil A.S.A. in Stavanger, Norway. "It seems there is little willingness for an underwriter to come up with a price. They ask for more and more information, but don't come up with anything."

Statoil, an oil and gas producer that operates in more than 30 countries, eventually did get coverage quotes, but then found the insurers to be unclear on terms and conditions, said Mr. Kapstad. "Maybe the market is a little bit skeptical," he said, in light of some of recent high-profile incidents such as nationalization efforts in Venezuela.

In lieu of purchasing political risk insurance or funding the risk in its captive insurer, Statoil controls the exposure on a country-by-country and project-by-project basis as part of its enterprise risk management

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# Coverage: Local companies take a pass on political risk insurance

CONTINUED FROM PAGE 18

program, Mr. Kapstad said.

MOL Rt., a Budapest, Hungary-based oil and gas subsidiary of the MOL Group, which operates in Central and Eastern Europe as well as Pakistan, is another energy company that has chosen to go bare when it comes to political risk insurance. "As of now, we are not buying any," said Tibor Papp, the company's head of group risk management.

Like Statoil, MOL prefers to manage the losses by preventing them through strict risk management.

The company establishes an

investment limit for each country where it operates, taking into account the riskiness of doing business there, Mr. Papp said. If MOL decides it needs to invest more than the limit, it will then consider funding its political risk exposure. That scenario, however, has never developed. "We have not come across a situation where we have had to transfer risk," he said.

MOL investigated the political risk insurance market, but decided it was sufficiently managing the exposure and did not need the coverage, Mr. Papp said.

In the Middle East, there is little appetite among local energy com-

panies to purchase political risk insurance, despite their location in a volatile region of the world. "The appetite there comes from overseas companies and, from them, there is quite an appetite," said Nick Du Sautoy, a director at London-based brokerage Miller Insurance Services Ltd.

"Local companies don't have the same perception of risk in the area as the overseas people," said Mr. Du Sautoy. "They probably don't see themselves as a target for that sort of thing," he said of political threats to their business.

"Frankly, the heavy duty political risk coverages are designed for com-

panies going into such areas," as they are more likely than local operations to be targets of takeovers, contract frustration or political violence, Mr. Du Sautoy noted.

For companies that decide to purchase political risk coverage in the commercial market, insurers say it can be arranged to cover operations in nearly every part of the world. "I would say Venezuela is off-cover," said Thomas Holmes, London-based associate director at Miller Insurance Services. "Generally speaking, in most countries it is available."

But underwriters are more careful about the risks they take on, said

Mr. Holmes. "Much more than two or three years ago," he remarked.

"The market has evolved an awful lot in the last 20 years," said Julian Barker, senior underwriter at Lloyd's of London insurer Ascot Underwriting Ltd., the Lloyd's business of New York-based American International Group Inc. "There are a lot more players in the market," particularly among international insurers, he said. "That has led to some degree of competition."

He agreed that political risk underwriters are careful these days and "underwriters' appetites do vary from case to case."

Sources said energy companies generally are doing a good job in assessing the volatility of the regions where they operate. There is, however, some room for improvement, they added.

Mr. Underwood and others suggested that one of the first moves an energy company should make in determining whether to enter a market is to ensure that bilateral investment treaties exist between the company's home government and the country that will host the operations. Such agreements, he said, should declare that the company's assets will not be expropriated or that the company will be fairly compensated if expropriation occurs.

"I'm not sure this has been on their radar," Mr. Underwood said of energy companies, partly because, like nationalization, cases of expropriation have not been commonplace in recent years.

Mr. Holmes said energy companies are among those that sometimes do not give their supply chains enough consideration when assessing political risks. With just-in-time inventory management in place at most companies, keeping supplies moving along the chain is more critical than ever, he said.

"Not everyone is providing it," he said of supply-chain coverage. "Some insureds are not aware that it is available."

Mr. Papp said MOL covers the risk of interruption of oil it receives for processing from Russia by maintaining an alternate supply. "Say there is no Russian crude available," he explained, "we can get oil from the Adriatic coast. It is more expensive and we would prefer to have the Russian supply, but we can get it," he said of the alternate source.

In some parts of the world, risk management is getting a hand from governments that have been forced to step up and help protect the energy industry from threats of political violence.

In Saudi Arabia, for example, the government had to undergo a "radical rethink" of its stance towards extremism, said Neil Quilliam, senior Middle East analyst with Control Risks Group Ltd. in London. "In the past, they have denied they had a problem," he said. "They have had to acknowledge it and retrain their security forces. Now they have much more proactive forces that are protecting facilities and seeking out extremists" that could threaten energy operations, he said.

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# Pensions: Overall funding levels improve

CONTINUED FROM PAGE 6

billion; and International Paper Co. of Memphis, Tenn., \$1.027 billion.

After Exxon Mobil and Bank of America, the three firms with the most-improved funding ratios also showed the highest increases in their discount rates.

Burbank, Calif.-based Walt Disney Co. had a funding ratio of 88.9% in 2006, up from 68.9% in 2005. The firm increased its discount rate to 6.4% last year from 5.3%.

Emerson Electric Co. of St. Louis had a funding ratio of 113% in 2006, up from 93.4% in 2005. Emerson increased its discount rate to 6.5% in 2006 from 5.3%. Minneapolis-based General Mills Inc. had a funding ratio of 124.4% in 2006, up from 105% in 2005. It increased its discount rate to 6.6% in 2006, from 5.6% the prior year.

## Higher discount rates

In fact, 86 of the top 100 corporate pension plans increased their discount rates in 2006 after several straight years of lowering them. The average discount rate among the top 100 plans rose to 5.8% in 2006, from 5.6% in 2005, due to rising interest rates.

Another big change is that, for the first time, plans' liabilities were reflected on corporations' balance sheets. The Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 158 last September, requiring "an employer to recognize the overfunded or underfunded status of a defined benefit postretirement plan (other than a multiemployer plan) as an asset or liability in its statement of financial position," according to the summary on the FASB Web site. The rule took effect on Dec. 15, 2006.

"We sit back and think as corporate decision-makers, or as an investor: 'What does that mean in terms of the value of the company?' From an economic reality, nothing has actually changed. You see it stated all the time that this move will remove X billion dollars from balance sheets. These aren't X billion dollars that have suddenly disappeared," said Steven J. Foresti, managing director at Wilshire Associates of Santa Barbara, Calif.

## Uncertainty over phase 2

FASB officials have not yet announced when they intend to implement the second phase of the overhaul of pension accounting. In that phase, the board is expected to decide whether plans will continue to measure liabilities using projected benefit obligations, switch to accumulated benefit obligations or use a new system.

The current use of the PBO projects future salary increases into the calculation of obligations, while the ABO does not include projections. Last July, despite many objections, the FASB announced its intention to stick with PBO during the first phase of accounting changes.

"If you have a plan, as it evolves over time and it's a pay-related plan, the progression of ABO is slower early and faster later. The

PBO, because it takes into account the impact of future pay, is a little bit more manageable or realistic progression of the liability," said Michael Hall, director of investment strategy at Tacoma, Wash.-based Russell Investment Group.

"Phase two is going to be a work in progress that has been talked about for a while, but there isn't any obvious action on it yet in terms of

FASB meetings. It's going to be a while before that happens," said Alan Glickstein, a senior consultant at Watson Wyatt Worldwide in Dallas.

As for high investment returns, the average among the 100 largest defined benefits plans was 11.5%, up from 9.7% in 2005.

Plano, Texas-based Electronic Data Systems Corp., had the highest

return on plan assets—15% in 2006, up from 14.2% in 2005. The firm's expected long-term rate of return was 8.4% in 2006, down from 8.6% in 2005.

J.C. Penney Co. Inc. of Plano, and Eastman Kodak Co. of Rochester, N.Y., both had investment returns of 14.8%, up from 11.4% and 12.3%, respectively, in 2005. J.C. Penney's expected long-term rate of return was 8.9% for both years, and Eastman Kodak lowered its rate to 8.6% in 2006 from 9% the year

before.

The average expected long-term return on plan assets decreased to 8.4% in 2006 from 8.5% in 2005.

Of the top 100 plans, only Abbott Laboratories of Abbott Park, Ill., increased its expected long-term return on plan assets, to 8.5% in 2006 from 8.4% in 2005. Of the top 100 plans, 72 left the returns unchanged.

*Pensions & Investments* is a Chicago-based sister publication of *Business Insurance*.

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## EQECAT launches offshore energy model

**OAKLAND, Calif.**—EQECAT Inc., a wholly owned subsidiary of ABSG Consulting Inc., has launched an offshore energy model for the Gulf of Mexico region.

In developing the Offshore Energy Model, EQECAT combined its extreme-risk modeling experience with the offshore experience and risk management knowledge of ABSG Consulting, which does extensive work with energy companies and the U.S. government.

EQECAT's Offshore Energy Model covers a range of risks in the Gulf of Mexico region for oil and gas platforms, pipelines and other offshore energy industry infrastructure.

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## MedRisk introduces comp claim card

**KING OF PRUSSIA, Pa.**—MedRisk Inc., a claims services and medical management company, has introduced the MPower Card, a service for issuing workers compensation indemnity payments.

MedRisk, in association with a bank provider of stored-value services, provides Visa-branded debit cards and supporting processes to workers compensation payers. Claims payers electronically send payment files to MedRisk, which then coordinates with the bank to issue a card to each new claimant and deposit funds into the account. Subsequent claims payments are made by electronically transferring funds to existing cards.

MPOWER cards offer a variety of benefits to insurance companies, third-party administrators, self-insured employers and state funds. They reduce the costs associated with paying by check, eliminate check fraud, improve cash control, and enhance customer service and claimant satisfaction. Services include client-branded cards, a customer support call center and Web site.

Injured employees can use the card at ATMs, banks and other locations where Visa is accepted. Claimants do not need to have a bank account, nor do they incur check cashing fees when using the MPower Card. Claimant's funds also are protected against stolen or lost cards.

For more information, contact Rommy Blum, marketing director, at 610-768-5812, ext. 150, or by e-mail at [rblum@medrisknet.com](mailto:rblum@medrisknet.com).

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# Consumer plans' out-of-pocket maternity costs higher: Study

*But CDHP advocates say Kaiser research omitted major points*

By JOANNE WOJCIK

A new Kaiser Family Foundation study shows out-of-pocket maternity care costs are higher for families enrolled in consumer-driven health plans.

For example, under traditional health care policies, out-of-pocket costs would total \$1,455, or about 15% of allowed charges, for the cost of having a baby, the KFF study

found. For health savings account-qualified CDHPs, however, the woman's cost liability could range from \$3,000 to \$7,000, or 31% to 73% of total allowed charges, the study found.

But CDHP advocates criticized the findings, saying KFF researchers failed to take into account that CDHPs have lower premiums and employers often contribute to accounts used to fund the deductibles.

When added together, the lower premiums and employer contributions to the accounts could offset any additional maternity-related out-of-pocket costs in CDHPs as

**'It seems to me that in doing their analysis, there were two very critical elements of the financial picture that got left out.'**

Meredith Baratz, Definity Health

compared with traditional health plans, they said.

"It seems to me that in doing their analysis, there were two very

critical elements of the financial picture that got left out. One is the cost of coverage—the premium costs to the individual or family—as well as the employer contribution to the account," said Meredith Baratz, vp-market solutions for Definity Health, a unit of Minnetonka, Minn.-based United-Health Group and a pioneer in the development of CDHPs.

For example, in the case of pregnant woman enrolled in a CDHP with a \$3,000 deductible, with premium savings of approximately \$1,000 annually and a \$1,600 contribution to the HSA by her employer, a woman would pay

only \$1,400 out of pocket for maternity costs, which is even less than the average charges in traditional plans cited in the KFF study, Ms. Baratz pointed out.

According to numerous CDHP studies, approximately two-thirds of employers contribute to either health reimbursement arrangements or HSAs, and contributions generally average \$1,600, both Ms. Baratz and the KFF study acknowledged.

"They don't mention the offset of premiums," concurred Jay Savan, a principal at Towers Perrin who specializes in development of consumerism initiatives for the consulting practice.

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NOTICE IS HEREBY GIVEN that the solvent Scheme of Arrangement for the business of GIO (UK) Limited has been terminated. The company's Scheme Liabilities (as defined in the scheme document dated 27 January 2005 and sanctioned by Order of the High Court of Justice on 25 April 2006) have been adjudicated or otherwise determined and all amounts payable by the company have been paid in full or deemed to have been satisfied in full in accordance with the scheme.

Queries in relation to this Notice may be addressed to Andrew Godwin at Cobalt Solutions Australia Limited (formerly known as Cobalt RunOff Services Limited), 3 America Square, London, EC3N 2LR, or to [andrewgodwin@cobaltsolutions.net](mailto:andrewgodwin@cobaltsolutions.net).

18th June 2007 Reynolds Porter Chamberlain LLP (Ref: Elizabeth Wheel)

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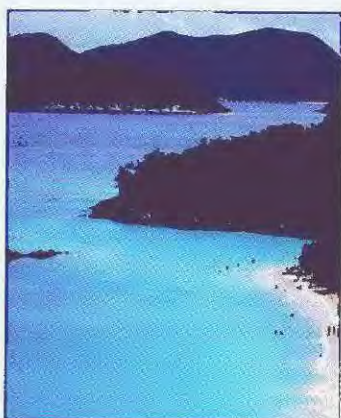
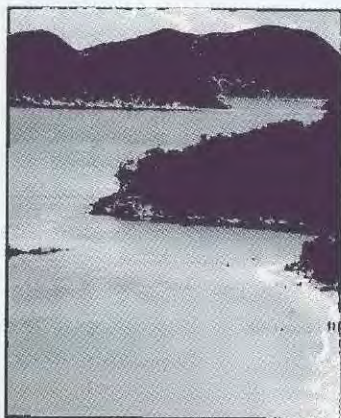
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# International NEWS

## Lloyd's settles lengthy Central Fund dispute

*Accord resolves case involving brokerages Aon and Benfield*

By SARAH VEYSEY

**LONDON**—Lloyd's of London has settled a dispute with two brokerages over a reinsurance program for the market's Central Fund.

Lloyd's announced it had settled with London-based brokerages Benfield Group Ltd. and Aon Ltd., a London-based unit of Chicago-based Aon Corp.

The terms of the settlement were not disclosed.

Benfield announced that the settlement will result in a net charge to the reinsurance brokerage of about £8 million (\$15.9 million).

"We are very pleased that this matter is now behind us. Aon's contribution to the global settlement and the financial impact for Aon reflects its role in the placement," Aon said in a statement.

In March 2005, Lloyd's settled a long-running dispute with the six former reinsurers of its Central

Fund for £152 million (\$261.2 million) but "reserved the right to pursue others involved in the placement of the policy for the shortfall."

The original dispute arose after the six former reinsurers of the Central Fund—which is financed by levies on syndicates and is intended

### ORIGIN OF DISPUTE

**THE DISPUTE** arose after the six former reinsurers of the Central Fund—which is financed by levies on syndicates and is intended to meet the liabilities of syndicates if they are unable to do so—stopped paying claims on the policy.

to meet the liabilities of syndicates if they are unable to do so—stopped paying claims on the policy.

According to sources, the reinsurers stopped paying claims because of a dispute over whether Lloyd's was within its rights to use the policy to make payments to U.S. trust

See **SETTLEMENT** next page

## Swiss panel OKs SCOR bidding for Converium

**PARIS**—SCOR S.A. has opened its tender offer to purchase Swiss rival Converium Holding Ltd.

Paris-based SCOR has gained approval from the Swiss Takeover Board to proceed with the offer, which expires July 9.

For each of Zurich-based Converium's shares, SCOR is offering half a SCOR share, 5.50 Swiss francs (\$4.43) and an amount in Swiss francs equal to 40 euro cents (\$0.53), which represents half of Converium's per-share dividend last year.

The combination of reinsurers will create a top five global multi-line reinsurance company in terms of gross premiums written, SCOR said in a statement.

"This project will create value by reinforcing the competitive position of the new group, by deepening its expertise and competencies, by raising the level of its risk management and by widening its degree of diversification," said Denis Kessler, SCOR's chairman and chief executive officer, in the statement.

—By Michael Bradford

## Buyers back insurer claims index

*Loss adjusters join willingness-to-pay effort by AIRMIC*

By SARAH VEYSEY

**LONDON**—Risk managers in the United Kingdom have welcomed efforts by their representative association to measure insurers' willingness to pay claims.

The Assn. of Insurance & Risk Managers this month offered more details on its planned willingness-to-pay index, which is intended to provide a standardized measurement of claims paying performance among insurers for risk managers to use as a benchmark.

At its annual conference in London, AIRMIC announced that the Chartered Institute of Loss Adjusters had agreed in principle to become involved in the project. AIRMIC initially will analyze property claims and attempt to evaluate insurers' procedures, resources, accuracy, impartiality, speed and evaluation in paying claims.

Most risk managers questioned by AIRMIC in a snapshot survey prior to the conference said they sup-

ported the idea of a benchmark for willingness to pay valid claims.

AIRMIC said that a survey of its membership showed that 69% backed the idea of an index, 12% were against the plan and 19% were not sure.

Of AIRMIC members who

indication of insurers' ability to pay, the willingness of insurers to pay when a crisis happens is less easily known.

Mr. Campbell, who is head of risk management at London-based fashion retailer Arcadia Group P.L.C., said AIRMIC's intention was to

come up with a rating system, but not one that would "name and shame" insurers.

"As a former risk manager, I think it is an excellent initiative. I wish we had had it in my day," Alan Fleming, incoming chief executive of AIRMIC, said of the proposed index.

The move is an example of risk man-

agers looking to find industry-led ways to reform market practice, without resorting to regulatory intervention, noted David Gamble, outgoing executive director of AIRMIC.

Mr. Fleming said it is important

See **AIRMIC** next page



RICHARD CCOKE

**'As a former risk manager, I think it is an excellent initiative. I wish we had had it in my day.'**

Alan Fleming,  
Assn. of Insurance  
& Risk Managers

responded to the survey, only 42% rated their insurers as "good" or "excellent" in respect to claims handling speed and accuracy, while 56% rated their insurers' claims procedures "good" or "excellent."

Colin Campbell, AIRMIC's new chairman, said that while credit ratings and other measures can give an

### More on AIRMIC at [BIEurope.com](http://BIEurope.com)

[BusinessInsuranceEurope.com](http://BusinessInsuranceEurope.com) offers expanded coverage of this year's AIRMIC annual conference from London, including PDFs of our daily news coverage, audio interviews, interactive slideshows and our top-notch onsite reporting on news, developments and awards. To access this and more, visit [www.bieurope.com/AIRMIC](http://www.bieurope.com/AIRMIC).



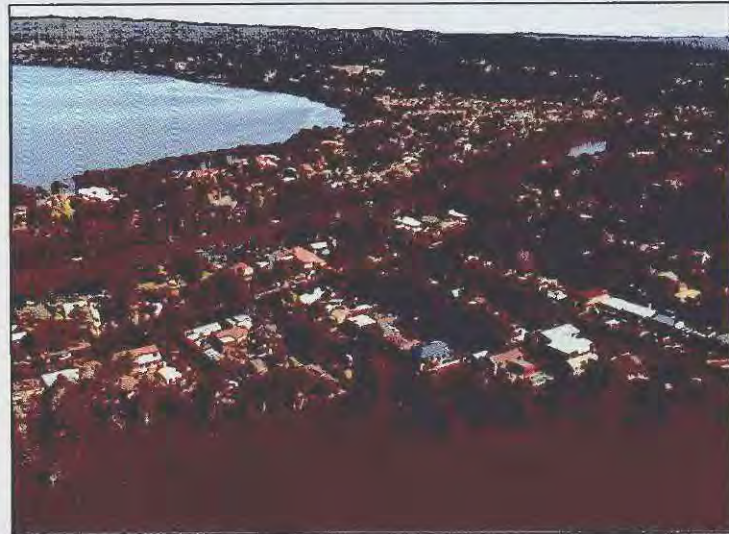
## New South Wales storm damage tops \$200M

Insurers in Australia are beginning to tally claims stemming from strong winds and torrential rainfall that recently swept over southern New South Wales.

According to the Insurance Council of Australia, the estimated claims cost has risen to \$270 million Australian (\$228.0 million), but the council is predicting this number will rise because the flooding occurred during the Queen's birthday holiday weekend.

Insurance Australia Group, which is expected, along with Suncorp Metway Ltd., to bear the brunt of claims from the storm, said in a statement last week that it will likely see storm-related claims of \$169 million Australian (\$142.7 million). While Suncorp has not disclosed the impact of the storm on its earnings, analysts estimate that it will see a similar exposure as IAG.

—By Elizabeth Fry



NEWSPIX

Widespread flooding in Australia has led to substantial claims.

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# News In Brief

CONTINUED FROM PAGE 1

reinsurance captives to conduct capital market securitized transactions. The law is seen as a boost for funding "Triple X" captives, formed by life insurance companies to remove hundreds of millions of dollars of reserve liability from their balance sheets.

## Benefits group proposes health system overhaul

Benefits lobbying group the ERISA Industry Committee last week unveiled a proposal under which competing benefit administrators would offer pension, savings and health care plans to employers and employees. The group envisions significant administrative savings through the new structure.

## High court denies venue change bid

The mere fact that a company must comply with Federal Trade Commission advertising regulations does not make that company "a person acting under a federal officer" and does not permit it to move a civil case from state to federal court, the Supreme Court ruled last week in *Lisa Watson vs. Philip Morris Cos. Inc. et al.* Philip Morris had attempted to move to federal court from an Arkansas state court a class action suit alleging that it had violated state law by misrepresenting how much tar and nicotine its light cigarettes contained.

## Noted

Joseph J. Beneducci has stepped down as chief executive officer of Fireman's Fund Insurance Co. after approximately six months in the role. Allianz of America Inc. President Chuck Kavitsky—who served as CEO of Fireman's Fund from 2004 to 2006—has been named interim CEO. A spokeswoman for the insurer cited "personal and career reasons" for the departure of Mr. Beneducci. Mississippi Attorney General Jim Hood sued State Farm Fire & Casualty Co. last week in circuit court for bad faith breach of contract related to the Hurricane Katrina-related settlement the two parties entered into in January.

## Suit disallowed

**WILMINGTON, Del.**—A Delaware Chancery Court judge ruled last week that American International Group Inc. head Martin J. Sullivan cannot be sued at this time by the AIG's former top officer, Maurice R. Greenberg, in a complex dispute related to the insurer's former relationship with C.V. Starr & Co.

The judge, Vice Chancellor Leo E. Strine, also granted C.V. Starr—where Mr. Greenberg now is chairman and chief executive—permission to file a cross-claim and seek possible contributions from AIG in the event plaintiffs prevail in their claims against C.V. Starr, a source familiar with the matter said.

In denying Mr. Greenberg's motion to countersue Mr. Sullivan or other current senior officers and outside directors, the judge did leave open the possibility for Mr. Greenberg to pursue such a claim after a final judgment in the underlying dispute, the source said.

Mr. Greenberg's bid to countersue arose from a 2002 shareholder derivative suit filed by the Teachers Retirement System of Louisiana, which charged that AIG officials improperly benefited from millions of dollars of commissions paid to entities controlled by Mr. Greenberg through C.V. Starr of New York.

C.V. Starr for many years produced business for AIG, but the companies have had a contentious relationship since Mr. Greenberg left AIG in 2005.

In January 2006, the plaintiff agreed to drop 15 current and former AIG directors and officers—including Mr. Sullivan—from the derivative suit, though it continued against Mr. Greenberg, former AIG Chief Financial Officer Howard I. Smith, former AIG director Edward E. Matthews and C.V. Starr itself.

In their bid to countersue, the defendants argued that current AIG CEO Mr. Sullivan and other AIG executives were more instrumental in determining C.V. Starr's commissions and were more to blame for any alleged wrongdoing.

A spokeswoman for Mr. Greenberg said: "We are delighted that the court granted C.V. Starr's motion to proceed against AIG."

A spokesman for AIG declined to comment.

—By Rupal Parekh

# AIG: Steps into litigation

CONTINUED FROM PAGE 1

trolled by the plaintiffs bar," the company said.

The insurer last week filed an amended complaint in Delaware Chancery Court to become the sole plaintiff.

According to the suit, "Greenberg's and Smith's misconduct and wrongdoing...have had, and will continue to have, a series of deleterious effects on AIG."

The duo—who parted with New York-based AIG in March 2005 and are now top executives at former AIG affiliate company C.V. Starr & Co.—failed to fulfill their fiduciary obligations to AIG, the suit says.

As a result, the suit says, the company incurred hundreds of millions of dollars in expenses related to: an internal investigation into the company's accounting, restatement of financial statements for several years, and legal fees for regulatory investigations and class action lawsuits against the company (see box).

AIG seeks indemnification from

## AIG SUIT

*Among the payments for which American International Group Inc. is seeking indemnification from its former top executives, Maurice R. Greenberg and Howard I. Smith, due to their alleged mismanagement of the company, are:*

- An \$800 million settlement of a Securities and Exchange Commission action against AIG relating to alleged misstatements included in AIG's financial reports filed with the SEC.

- A \$25 million charge AIG took to settle Department of Justice claims relating to the alleged misstatements.

- A \$100 million fine AIG paid to the New York Attorney General's office and the New York State Insurance Department to resolve a civil action alleging the company took various actions to manipulate its stock price.

- Hundreds of millions of dollars in interest and penalties paid by AIG to settle claims by the New York attorney general and New York State Insurance Department that AIG underpaid both its workers compensation taxes and its required contributions to various state workers comp funds.

- Millions of dollars more AIG has paid to address an internal investigation, regulatory probes and defend lawsuits brought against the company in the form of consolidated securities class actions.

Source: Court documents

Messrs. Greenberg and Smith in connection with claims "asserted against AIG by virtue of Greenberg's and Smith's misconduct and wrongdoing," and an award of damages "in excess of \$1 billion," according to the suit.

Lawyers for Messrs. Greenberg and Smith say AIG's suit is without merit.

"These are old recycled allegations which were dismissed from other lawsuits," said Lee S. Wolosky, Mr. Greenberg's attorney and a partner at Boies Schiller & Flexner L.L.P. in New York.

"The allegations in the amended complaint really arise out of the Spitzer complaint in New York in 2005, many of which have been withdrawn from that case," said Vincent A. Sama, an attorney for Mr. Smith with the law firm Winston & Strawn L.L.P. in New York. It "seems a little inconsistent," Mr. Sama said. Mr. Spitzer last year amended his May 2005 civil fraud suit against AIG and Messrs. Greenberg and Smith to drop a handful of allegations (*BI*, Sept. 11, 2006).

Mr. Spitzer's suit continues to charge that Messrs. Greenberg and Smith misled investors with sham transactions that artificially boosted AIG's reserves and disguised underwriting losses.

But the suit eliminated previous allegations that the two executives guided schemes to avoid state workers compensation premium taxes and to conceal AIG's control of several offshore entities, and it drops a demand for punitive damages.

In addition, Mr. Spitzer's amended complaint removed AIG as a defendant; the insurer paid more than \$1.6 billion to settle similar charges brought by Mr. Spitzer and the Securities and Exchange Commission (*BI*, Feb. 13, 2006).

"AIG's special litigation committee investigated these matters for months, if not years, and could find no new allegations to advance. The largest restatement items affecting net income are not even the subject of this lawsuit," said Mr. Wolosky.

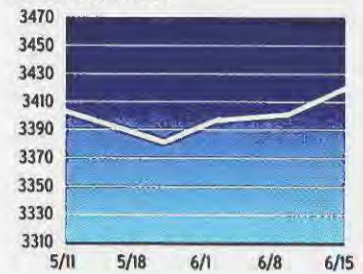
In a separate legal action in Delaware Chancery Court last week (see related story), a judge ruled that American International Group Inc. CEO Martin J. Sullivan currently cannot be sued by Mr. Greenberg, in a complex dispute surrounding the insurer's longtime relationship with C.V. Starr & Co. However, the judge, Vice Chancellor Leo E. Strine, granted Starr permission to file a cross-claim and seek possible contributions from AIG in the event that the plaintiffs prevail.

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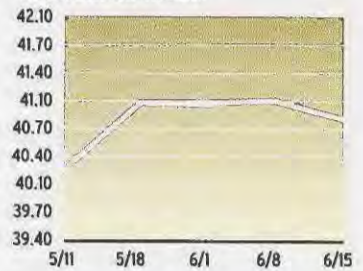
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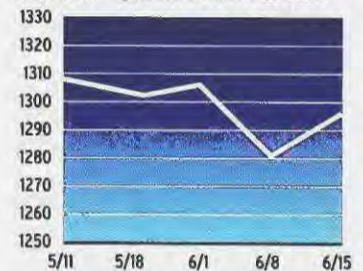
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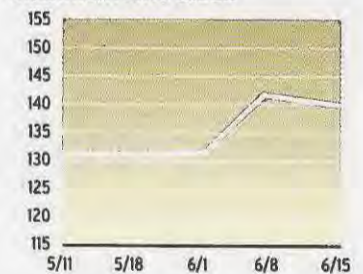
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AXA	4.71%
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## END PAGE

Contributing: Roberto Geniceros,  
Mark A. Hofmann, Beth Murtagh,  
Rupal Parekh

## Science stunt sparks claim from shocked teacher

A light bulb held in a Connecticut middle-school teacher's hand lit up when 50,000 volts of electricity generated by a Tesla coil shot through her body.

But the science exhibit gone awry didn't spark the sympathy of a workers compensation review board.

Teacher Kathleen Freel claimed she suffered work-related injuries during an October 2002 "Magic of Science" exhibit requiring her to sit on a Tesla coil with the light bulb in hand while electricity passed through her for several minutes.

Tesla coils, invented by Nikola Tesla in 1891, boost electricity to an extremely high voltage. Enthusiasts craft the alternating current devices for the lightning bolt-like electrical discharges that shoot from them.

Following the science exhibit at the West Haven, Conn., school, the teacher sought medical attention for chest spasms, head pain, hoarseness and aggravation of a pre-existing cervical spine injury, among other problems.

A trial commissioner agreed she suffered a compensable injury, but ruled the claimant's cervical spine problems did not result from the science exhibit and rejected unauthorized out-of-state treatment costs.

Connecticut's Workers' Compensation Commission this month upheld the ruling on the teacher's spine, but sent the case back for reconsideration of authorizing the out-of-state treatment.

## Truth-twisting weather reporter alarms Midwest

A weather-savvy prankster's hoax has created a whirlwind at the National Weather Service.

An unidentified person has made a habit of sending sham severe weather reports to the group's Web site, which authorities say have caused unnecessary weather alerts.

The areas affected include Chicago, Lincoln, Ill. and parts of Wisconsin, said Tom Schwein, chief of the National Weather Service's systems and facilities division for the central region in Kansas City, Mo.

It was an April 25 online report of a tornado causing destruction and injuries in Blue Mound, Ill., that raised suspicions. Severe weather was already in the area, but the county's Emergency Management Agency issued a tornado warning based on the spotter observations, according to news reports.

People took cover and a local news station interrupted its broadcasting for three hours, Mr. Schwein said. Then other trained weather spotters in the area said they didn't see any damage as reported online.

The online accounts appeared believable since they were sent about areas that actually had severe weather, Mr. Schwein said. Their times and locations matched with what weather officials saw on their satellite and radar data. Weather-tracking radar is available to the public online.

"This person has some enhanced knowledge of meteorology," he said. "That's the only thing we glean from the reports."

Since April, the person has submitted between 40 and 50 false reports to NWS, according to Mr. Schwein.

The motivation remains unknown—for now. An FBI investigation has found the Internet service protocol address of the computer used and has subpoenaed records to identify the imposter weather reporter. Giving false statements is a federal crime and carries a maximum penalty of five years in prison and a \$250,000 fine.

## Newspaper seeks to kick judge off its case

In a twist on the biblical admonition, "Judge not, lest ye be judged," the Illinois Supreme Court finds itself the target of a suit involving a libel award won by its chief justice.

According to the Chicago Tribune, Shaw Suburban Media Group, which owns the Kane County Chronicle, and former columnist Bill Page have sued the entire state Supreme Court in federal court.

The plaintiffs contend their appeal of a \$4 million libel award won by Chief Justice Robert R. Thomas cannot receive a fair hearing before the high court because it is led by the man who won the award. They want the matter put off—and no award paid—until Judge Thomas leaves the court, which won't happen until 2010 at the earliest.

The plaintiffs also contend that the rest of the court must recuse itself because Justice Thomas, once a kicker with the Chicago Bears, called some of them as witnesses in his successful suit against the newspaper and Mr. Page.

In a column, Mr. Page accused Justice Thomas of trading votes in a case for political reasons, a charge Judge Thomas denied. The led to the libel suit, which the chief justice won.

Such a suit attempting an end run around the appeals process by suing an appellate court is extremely unusual, perhaps even unprecedented, according to legal experts quoted in the Tribune and other Illinois newspapers.



## Gov. Spitzer switches sides in insurance fraud fight

Raising awareness about insurance fraud is now on New York officials' agenda—literally.

Last week, Gov. Eliot Spitzer, New York Mayor Michael Bloomberg and more than 30 mayors and town supervisors around the state declared June 27 as Insurance Fraud Prevention Day.

The New York Alliance Against Insurance Fraud—a trade group with more than 100 insurer members—proposed the observance as part of an

education campaign that encourages residents to combat insurance fraud through a toll-free hotline, 1-888-FRAUD NY (1-888-372-8369), and a new interactive Web site, [www.fraudny.com](http://www.fraudny.com).

NAAIF officials cited independent research showing that one-third of U.S. residents believe it's OK to exaggerate claims to make up for deductibles, and 10% would commit insurance fraud if they thought they

could get away with it.

"Insurance Fraud Prevention Day provides an excellent platform to create greater recognition of the fraud problem here, urge citizens to learn more about it, and learn how not to become entrapped in an insurance fraud scheme," NYAIF Chairman Tom Sullivan said in a statement.

The group said experts believe about one in four premium dollars "go toward the effects of fraud."

The New York Alliance Against Insurance Fraud has set up a Web site, [www.fraudny.com](http://www.fraudny.com), as part of a new campaign. The effort has won the backing of former insurer foe Gov. Eliot Spitzer.

SOMETIMES, THE DIFFERENCE  
BETWEEN SELF-INSURING AND SELF-DESTRUCTING  
IS ONLY OBVIOUS WHEN IT'S TOO LATE.



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